United Nations S/PV.6677

# Security Council

Sixty-sixth year

*Provisional*

**6677**th meeting

Wednesday, 7 December 2011, 11 a.m.

New York

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| *President*: | Mr. Churkin | (Russian Federation) |
| *Members*: | Bosnia and Herzegovina | Mr. Barbalić |
| | Brazil | Mrs. Viotti |
| | China | Mr. Yang Tao |
| | Colombia | Mr. Alzate |
| | France | Mr. Bonne |
| | Gabon | Mr. Moungara Moussotsi |
| | Germany | Mr. Berger |
| | India | Mr. Vinay Kumar |
| | Lebanon | Mr. Assaf |
| | Nigeria | Mr. Onowu |
| | Portugal | Mr. Cabral |
| | South Africa | Mr. Mashabane |
| | United Kingdom of Great Britain and Northern Ireland | Ms. Hendrie |
| | United States of America | Mr. DeLaurentis |

## Agenda

The situation in Burundi

Report of the Secretary-General on the United Nations Office in Burundi (S/2011/751)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506.

11-62586 (E)

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*The meeting was called to order at 11.05 a.m.*

**Adoption of the agenda**

*The agenda was adopted.*

**The situation in Burundi**

**Report of the Secretary-General on the United Nations Office in Burundi (S/2011/751)**

**The President** (*spoke in Russian*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Burundi to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite Ms. Karin Landgren, Special Representative of the Secretary-General and Head of the United Nations Office in Burundi, to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite His Excellency Mr. Paul Seger, Permanent Representative of Switzerland, in his capacity as Chair of the Peacebuilding Commission's country-specific configuration for Burundi, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2011/751, which contains the report of the Secretary-General on the United Nations Office in Burundi.

I now give the floor to Ms. Landgren.

**Ms. Landgren** (*spoke in French*): Since I last reported to the Security Council, in May (see S/PV.6538), there has been progress showing that Burundi is carrying forward its peacebuilding efforts largely as we had hoped. There have also been developments that could jeopardize that progress and a long-term socio-economic outlook rife with challenges.

The massacre of 39 people on 18 September at a bar on the outskirts of Bujumbura reminded many people of Burundi's painful past. The following morning, the United Nations and the international community were invited to join President Nkurunziza in visiting the site of the devastating attack, where 23 corpses still lay. On 18 October a commission of inquiry presented its report to the country's Prosecutor. The 21 people arrested after the attack were indicted last month, and the six accused of planning the attack have been charged with crimes against humanity.

The defence has challenged several aspects of the trial's procedure, including alleging that counsel had no access to their clients or to the report of the commission of inquiry. The trial will be closely followed and will be a decisive test of the independence and impartiality of Burundi's judicial system. Nevertheless, I want to emphasize that the attack was fundamentally an isolated incident and that the security situation in the country remains generally calm.

The past six months have seemed to point the way towards normalization of relations between the Government and the extra-parliamentary political parties. The Government often expressed its willingness to engage in dialogue, as realized by the First Vice-President in the launching of quarterly meetings with the registered political parties. The Alliance démocratique pour le changement-Ikibiri did not participate in those meetings. I encourage the Government and the parties to tirelessly pursue efforts at dialogue.

The prospects for normalizing relations between the Government and the extra-parliamentary opposition were overshadowed by the arrests and, above all, the assassinations of members of some of those parties, as well as by reliable information about recruitment, organization and paramilitary training carried out by members of certain opposition groups and parties. All Burundian political stakeholders should be encouraged to demand an end to assassinations and disassociation from armed groups.

For a country still emerging from many years of conflict, Burundi should be commended for the relative political freedom in the context of its post-transition Constitution. There is now a need to ensure that there is no backsliding with regard to the political space, including as a result of harassing the media and civil society.

The country's future is reflected in Burundi's one-year presidency of the East African Community, which culminated in the holding of a summit in Bujumbura on 30 November that was marked by optimism, hope and determination. Burundi was commended for its contribution to expanding integration through the implementation of the protocol

on a common market and the progress made in the discussions on a single currency and political federation. The debate was characterized by that vision for expanded integration and by Burundi's attachment to an increasingly dynamic East African Community. That provides an opportunity to strengthen the country's stability and democratization.

Nevertheless, for many Burundians the East African Community remains an elusive concept. Burundi's capacity to benefit from it still needs to be strengthened. The United Nations Office in Burundi (BNUB) is endeavouring to continue its support to the Government so as to enable it to move ahead with its integration process.

Allow me once again to take this opportunity to commend the important role played by Burundi, despite its own challenges, to strengthen peace and security in the region. In the context of the African Union Mission in Somalia, Burundi has deployed many troops to Somalia and has experienced tragic losses.

Burundi has made significant progress this year in the area of transitional justice. A technical committee was established in June to consider Burundi's commitments and international practice in that area, as well as to develop a draft law and budget on a truth and reconciliation commission. The committee presented its report to President Nkurunziza on 18 October. On 19 November, Mr. Laurent Kavakure, current Minister for Foreign Affairs and International Cooperation and former Chair of the committee, formally transmitted that report to me.

The report's main purpose concerns the draft law. As a whole, it reaffirms the fundamental principles of the truth and reconciliation commission. It reiterates the principles of commission's independence and impartiality, clearly states that the commission will not be a judicial mechanism and charges the commission with identifying all violations and crimes. Nevertheless, it states that the work of the commission should not prejudice the competencies of the special tribunal.

Some provisions do not reflect the recommendations of the national consultations on transitional justice concluded in 2010. The report proposes a truth and reconciliation commission made up solely of Burundians, while the national consultations recommended a commission composed of both Burundians and non-Burundians. Those consultations also recommended that the recruitment panel be made up of representatives of the Government, civil society and the United Nations — something not provided for in the draft law.

I commend the collaboration between the Government and the United Nations system that marked the preparatory phase, during which we provided experts along with material and logistical support. A positive solution to outstanding issues will serve to strengthen the confidence of the international community, which will make it possible for it provide its full support and the necessary resources for this long-awaited process to allow Burundi to take responsibility for its past. We look forward to continuing our engagement with the Government and other partners in order to arrive at a process that closely adheres to international standards.

(*spoke in English*)

The National Independent Human Rights Commission, established through a law consistent with the Paris Principles, is another noteworthy achievement of 2011. Since its members' swearing-in, in June, the Commission has gotten straight to work. This comes at a time of continuing human rights challenges in Burundi. In recent months, several prominent members of Burundi's dynamic community of human rights defenders have been summoned before the Prosecutor's office in the Bujumbura Mairie for questioning, as have representatives of civil society and the media. Lawyers, too, have faced imprisonment. An independent media, civil society and judiciary have important roles to play in peace consolidation. I am concerned that those roles are being constrained.

The consolidation of peace in Burundi also remains marred by politically motivated killings. Since the report (S/2011/751) of the Secretary-General was prepared, BNUB has documented a further 11 cases of suspected extrajudicial killings, bringing the number of cases documented by the mission to 57 for the period 1 January to 30 November. It is the firm expectation of the United Nations that the Government will take quick and decisive measures to prevent killings linked to its own agents and to investigate and punish those responsible.

Many of those concerns have already been raised in the 31 May report (A/HRC/17/50) by the former independent expert on the Human Rights situation in Burundi, Mr. Fatsah Ouguergouz, who recommended

that the Government take all necessary steps to bring to justice the members of the defence and security forces, as well as any other persons suspected of having perpetrated gross human rights violations. The independent expert also urged the Government to pursue and enhance its efforts towards the strengthening of the judiciary, including the recruitment and independence of magistrates. The United Nations will continue to extend full support to all such efforts, and to encourage the enhancement of national investigative efforts through the routine conduct of autopsies and the use of forensic investigations.

As the Council is well aware, those developments are unfolding against a backdrop of extreme poverty. The report before the Council sets out a snapshot of those privations, which are exacerbated by high population density and youth unemployment. The nexus between land pressure and population growth is a particular concern. While Burundi has made significant gains in school education, it has fallen behind in achieving the Millennium Development Goals for poverty reduction, gender equality, maternal and child mortality, access to safe drinking water, undernourishment and the prevalence of HIV/AIDS. Burundi's physical, economic, social and legal pressures must be addressed and managed so as to reinforce, and not undermine, the consolidation of the country's hard-won peace.

Burundi is in the final phase of completing its second poverty reduction strategy, which offers a systematic basis from which the country, with its partners, can address its economic and socio-political challenges. The Government, the United Nations, the World Bank and the Peacebuilding Commission are working together to shape a partners' event for 2012 that will be an opportunity to showcase the good progress made and to attract both aid and investment.

As we anticipate that positive evolution, continued strong regional engagement will be required, as well as a common approach among partner Governments, regional organizations and the United Nations, in our support of Burundi's peace consolidation and economic development efforts.

As the report of the Secretary-General indicates, we have had a smooth and efficient transition from the former and larger mission, the United Nations Integrated Office in Burundi, to our new light footprint in BNUB. This remains an integrated mission, albeit with a structure intended to facilitate the eventual transition to a United Nations country team presence.

BNUB has worked on draft benchmarks to prepare the way for this transition. Let me mention briefly the principal benchmarks which are being developed.

On Burundi's democratic process, we would expect to see continuing progress in the resolution of political differences through dialogue and engagement. On the country's security and stability, we should expect a security structure and related democratic oversight enabling Burundi to respond effectively to domestic and international security concerns while respecting global norms and rights. We anticipate continuing progress in transitional justice. We foresee legitimate, democratic and accountable institutions, from the national to the local levels. We look for an increasingly independent, accessible and credible justice system and a deepening culture of promoting and protecting human rights.

I look forward to reporting to the Council on these proposed benchmarks in greater detail.

When this mission phases out, it will be important for the United Nations and other partners to continue to give support to strengthening national institutions. Our priority now is to have a common vision for this within the mission and the United Nations country team and to anchor these elements within the work of the team.

Meanwhile, there is good collaboration among us, including on a number of projects such as a programme funded through a $9.2 million contribution from the Peacebuilding Fund, to support the sustainable socio-economic reintegration of marginalized populations in three provinces bordering the Democratic Republic of the Congo. We continue to search for additional funding for this vital sector to cover other provinces where the needs are equally pressing.

I would like to take this opportunity to welcome Burundi's new Permanent Representative to the United Nations in New York, Ambassador Herménégilde Niyonzima, and also to thank outgoing Permanent Representative Ambassador Zacharie Gahutu for the good cooperation we enjoyed.

The road out of past violence is long and difficult, as the world knows. In 2012, Burundi is

expected to take further strides along that road by initiating a formal process of truth, reconciliation and justice. It is understood that this process must be an inclusive one. Further ahead lie the 2015 elections, which President Nkurunziza recently called on all political actors to start preparing for. In addressing the continuing challenges of peace consolidation and development, Burundi's Government and people deserve our continued commitment and strong support.

**The President** (*spoke in Russian*): I thank Ms. Landgren for her briefing.

I now give the floor to Mr. Paul Seger.

**Mr. Seger** (*spoke in French*): Allow me at the outset to thank you, Sir, for having invited me to speak in my capacity as Chair of the Burundi configuration of the Peacebuilding Commission (PBC).

I returned from a weeklong visit to Burundi in late October, and my impressions in the field largely confirmed the assessment and analysis contained in the outstanding report of the Secretary-General (S/2011/751) and in Ms. Karin Landgren's briefing. The country has indeed achieved some progress in various fields, including the establishment of the National Independent Human Rights Commission, which Ms. Landgren just spoke of, the establishment of an Office of the Ombudsman; and by continuing with the transitional justice process.

I was particularly impressed by the President of the National Independent Human Rights Commission and the Ombudsman, who, through their commitment and integrity, are contributing to improve the functioning of institutions, good governance and respect for human rights. Such institutions are important to bolstering confidence between the people and the authorities.

However, the various contacts that I had with several representatives of civil society, State institutions and representatives of the international community on the ground confirmed the observations made in the report of the Secretary-General to the effect that considerable challenges remain on the path to peacebuilding.

In my view, the three major obstacles to be overcome are the socio-economic situation, the political gulf between the Government and the extra-parliamentary opposition, and, linked to this, the human rights situation. As the report of the Secretary-General lists those shortcomings in detail, I shall not repeat them here in order to save time. I merely wish to say that I share his views.

This shows, in my opinion, that the bases for the cooperation between the Commission and the Government of Burundi, upon which we reached agreement, as noted in the April 2011 document of which I spoke during my previous briefing last May, remain valid. However, given the developments in the situation and the wishes of the Government of Burundi, the PBC in future will place a heavier accent on resource mobilization so as to implement the country's poverty reduction strategy.

Indeed, the integration into society of groups affected by conflict enables them to live in dignity and also minimizes the risk of former combatants taking up arms once again and returning to violence because of a lack of alternatives. This is particularly true in the case of young people, among whom the unemployment rate remains very high. Work would not only give them a sense of purpose in life but also the feeling of being an integral part of society. In that respect, socio-economic integration is a key pillar of peacebuilding.

I was particularly struck by the case of an 18-year-old, a former Forces nationales de libération combatant, who created a rice-producing association jointly with local women with support from the PBC Fund. That association made a profit of $7,000, which is a small fortune in Burundi, and is continuing with that project. We must replicate such projects, but the country cannot do this alone, without international support.

The Peacebuilding Fund has recently, as Ms. Landgren noted, additionally disbursed nearly $10 million to support such projects, and my most sincere thanks go to the Fund for that decision. But although that contribution is welcome, it is not nearly sufficient to meet demand. As Ms. Landgren stated, we must find an additional $15 million in the short term.

Here I wish to add my voice to that of the Secretary-General and the Special Representative in appealing to the international community not to forget Burundi. The Government of Burundi plans to convene international meetings in 2012 so as to mobilize funds, and the configuration itself will spare no effort in promoting the success of such endeavours.

I am well aware of the fact that the international environment is not exactly conducive to this kind of undertaking. However, given the high cost of an international peacekeeping operation, providing financial support to solidifying political and economic development in a country emerging from conflict would be considerably less expensive and more economical than a major operation. Key partners such as the World Bank, with which I have already met three times, and the African Development Bank, with which I met recently in Tunis, are ready to work with the PBC to support the economic recovery of Burundi.

The economic and social progress that Government is rightly seeking for its people will not be sustainable in the absence of the rule of law and stable, reliable institutions. The Arab Spring has shown us to what extent peace, human rights and economic and social development are interdependent.

Like the Secretary-General, I urge the Government of Burundi to ramp up and speed up its efforts in connection with political dialogue, respect for human rights and good governance. I call in particular on the Government to allow opposition parties that are not represented in the Government, human rights defenders and journalists to carry out their activities freely, with respect for the law, without fear of being intimidated, threatened or physically attacked.

Reports indicating that opposition members have been detained or even arbitrarily killed by the forces of law and order are worrisome and are a blot on Burundi's image as a democratic, peaceful country. It is in the interest of the Government of Burundi that such cases be addressed with seriousness and objectivity and that the perpetrators be brought to justice.

I also call on the opposition to abandon its empty-chair policy, unequivocally distance itself from all forms of violence and participate constructively in political debate in the interests of the country. Like the Secretary-General, I hope that the forthcoming elections, scheduled for 2015, will allow all parties to participate freely and equally. The elections will not only be important for Burundi; I believe that they will provide a assessment of our own endeavours to build peace.

Every time I visit Burundi I am quite impressed by the richness and human quality of the country. Its people deserve a better future, and as a country configuration we are ready to contribute to that. Based on the reactions I have had from many conversations, I believe that the follow-up by the PBC and my visits to the country are appreciated. They are a signal to Burundians that the international community and New York have not forgotten them.

The fact that the Commission is a body made up of States gives it significant political clout. For States that give Burundi financial support, the involvement of the PBC assures them that the country is part of a structure that affords a platform for regular and institutional dialogue on all peacebuilding-related issues. The PBC's support helps complete the excellent operational work that the Special Representative and her team are doing on the ground and without which the PBC could not fulfil its mandate. I should thank her and her team sincerely for their work.

In conclusion, allow me to touch on the future of the configuration in Burundi. When I briefed the Council on 17 May (see S/PV.6538), I said that our ultimate goal is to ensure that the Commission becomes obsolete. The configuration has already begun, flexibly and gradually, to prepare for that transition. In the near future, however, as I have already said, the PBC's big challenge will be to give Burundi support in mobilizing resources for its economic and social development. In that regard, the Commission will focus its efforts on areas that are closely related to support for conflict-affected groups and the first pillar of the poverty-reduction strategy, dealing with matters pertaining to peacebuilding. After that we should be able to consider helping the country attract private investment, since, ultimately, the people of Burundi's prosperity will depend on developing its private sector. The configuration is also willing to support the national institutions that play a key role in the areas of the rule of law and good governance, such as the National Independent Human Rights Commission and the Office of the Ombudsman.

Once those tasks are completed, it will be time to take stock and decide together if and, should that be the case, how cooperation with the configuration should continue. Less intense support might be a possibility. We are in any case heading in that direction through holding meetings more often within the steering group rather than convening the entire configuration. I would like to thank warmly some of the countries represented here in the Council that are

especially active in the steering group, particularly some African countries, the United Kingdom and China and others. Their efforts have been extremely important and very much appreciated.

As the Council will have noted, we still have work to finish. I am ready to roll up my sleeves and throw myself into those tasks as long as the Government continues to show its interest and political resolve to continue along this path with the Commission.

**The President** (*spoke in Russian*): I thank Mr. Seger for his briefing.

I now give the floor to His Excellency Mr. Adolphe Nahayo, Director-General of Regional and International Organizations at the Ministry of External Relations and International Cooperation of Burundi.

**Mr. Nahayo** (Burundi) (*spoke in French*): Allow me, first of all, to convey greetings to the Council from His Excellency Mr. Laurent Kavakure, Burundi's new Minister for External Relations and International Cooperation. He would have liked to be here in person to take part in the presentation of this first report (S/2011/751) on the United Nations Office in Burundi (BNUB), but the Government entrusted him with another mission at the last minute. He asked me to share the following statement with the Council.

The Government of the Republic of Burundi is grateful to the Security Council for agreeing to maintain its political partnership with Burundi through the United Nations Office in Burundi after the 2010 elections. The Government of Burundi is also grateful to the Secretary-General for his efforts, and in particular those of the Department of Political Affairs, which appointed an effective team for Burundi, led by Ms. Karin Landgren. The Special Representative and her team have conducted the transition from the United Nations Integrated Office in Burundi to BNUB successfully and on time. We commend them for that. Nor should we forget to mention the Burundi configuration of the Peacebuilding Commission (PBC), which has continued to support us in our efforts to find solutions to the remaining challenges to peace in Burundi.

Our thanks are also due to the Assistant Secretary-General in charge of the Peacebuilding Support Office, whose commitment to peace in Burundi mobilized more than $9.2 million in additional funds for consolidating the gains made in reintegrating conflict-affected populations, particularly in Bubanza, Cibitoke and Bujumbura Rural provinces, and for extending reintegration operations to other provinces.

The Secretary-General's report on BNUB assesses the implementation of resolution 1959 (2010) by both Burundi and BNUB. In that regard, the Government is grateful to the Secretary-General and his Special Representative for their understanding of the true worth of the progress that has been made in the various areas addressed by the resolution. Those include, in particular, the Government's adoption of a national strategy on good governance and its fight against corruption; its review of national defence and security policy; the effective establishment of the National Independent Human Rights Commission and of the successful start of the activities of the Office of the Ombudsman, as well as the preparation of mechanisms for dealing with transitional justice. The Government has already informed the High Commissioner for Human Rights in Geneva that those mechanisms will begin to be set up in January 2012.

The State Inspector General has already lodged 11 complaints with the Public Minister in 2011. The resolution and closure of those cases will enable the Treasury to recover more than 20 billion Burundi francs for damages suffered since 2007 — almost $20 million — a quarter of which has already been returned to the State's coffers. The Government of Burundi again expresses its gratitude for the contribution of the United Nations and its other partners in obtaining those results and in ensuring that their ownership has been assumed by other national stakeholders, in this case by Parliament, civil society and the media.

At the same time, the Government should be allowed to explain why some results are yet to be achieved despite its efforts and goodwill. The report refers to extrajudicial executions and torture. The Government would like to recall that the continuing armed violence in Burundi is the result of several factors. The first is the presence of illegal firearms. Despite the efforts to disarm civilians, the Government realized during the pacification campaign in Bujumbura Rural province that stocks of arms still existed in the country — the legacy, unfortunately, of the last rebel movement to rejoin the peace process. Moreover, the porousness of our borders exposes the

country to illegally trafficked arms entering from neighbouring countries because of banditry or rebellions.

Such armed violence may be related to score-settling among former combatants, landownership disagreements, clashes between armed bandits and police or attacks on innocent civilians by armed groups. At any rate, when those presumed guilty are law-enforcement officers, the Minister of Public Security deals with them severely. The 31 October report on security in Burundi gives all the details on that situation and states, in page 24, that 223 police officers have been arrested for involvement in armed violence. The Mission of Burundi in New York will provide that report to all delegations in New York.

Furthermore, the Government has undertaken, on the basis of the results of peacebuilding, brainstorming on lasting reform of the defence and security bodies. Planning for eight years with respect to the National Defence Force, and for ten years for the national police, the Government wants to make these agencies the guarantors of peace, the rule of law and territorial integrity, but also the driving forces for development.

With respect to justice and the rule of law, the Government is not the only party responsible for the slow pace of the judiciary bodies. Today we see repeated requests for hearings from partners in the justice system so that they can gather all their witnesses or build their cases. One also must acknowledge that due to the failure by certain partners to meet financial commitments, the Government has not had sufficient resources to be able to appropriately complete some of the cases, particularly when the sad events follow one after another very quickly, such as the case of Rukoko or that of Gatumba. Let us not lose sight of the fact that Burundi is a post-conflict country. Once again, the Government would like to reassure its partners that the cases pending before the courts will be brought to a conclusion.

With respect to freedom of expression and of assembly, the Government of Burundi respects those principles. But that does not prevent it from ascertaining compliance with the law by private associations or the press, particularly when the latter advocate violence or civil disobedience, or even outright disinformation. Again, the report of 31 October 2011 on security in Burundi confirms, on pages 27 to 29, that part of civil society and certain press organs have deviated from those principles.

The report refers to the absence of dialogue between the Government and the extra-parliamentary opposition. On this subject, the Council would agree that lack of dialogue is not due to the Government. His Excellency the President of the Republic issued an appeal to opponents in exile to return to the country to take part in dialogue, and the First Vice-President invited the opposition to join in dialogue. In both cases, those partners have rejected the calls outright and instead have called for negotiations like those of Arusha — as if there were no legitimate power in Burundi. It is regrettable to hear certain opposition leaders justify the paths of violence advocated in certain statements made under cover of anonymity.

The Government will continue to extend its hand for political dialogue, but it will not cease it steps aimed at implementing Vision 2025. Through this Vision the Government wants to make Burundi a country of the rule of law, where social cohesion reigns, a country that is economically prosperous, with population growth under control. It wants to ensure effective management of its patrimony in terms of land and of its urbanization, a nation well integrated into the East African Community.

In this framework, Burundi is completing the drafting of the second version of its Strategic Framework for Growth and the Fight against Poverty — CSLP II — which is based on four strategic axes: strengthening the rule of law, consolidating good governance and promoting gender equality; transforming the Burundi economy to ensure sustained growth and job creation; improving the accessibility to and quality of basic social services and strengthening the foundation of the social safety net; and management of the area and the environment in harmony with sustainable development.

Without waiting for the implementation of CSLP II, the Government has already reformed the land code and strengthened the actions of the national commission on land and other property in order to manage current land conflicts. It has launched the village management policy in order to free up some arable land and has undertaken sustainable reintegration of populations affected by conflict.

His Excellency the President of the Republic of Burundi launched the campaign to control population

growth, because the Government recognizes the constraints that population growth imposes on development. It is currently updating its national gender policy to ensure that gender equality will boost development

During this month of December, Bujumbura will be the venue for the national forum on food security.

The Government of the Republic of Burundi has already requested the United Nations and all friendly countries to support the implementation of these programmes for recovery now under way and those that will be defined on the basis of the CSLP II to consolidate the gains that have been set out in the report of the Secretary-General so that Burundi can address the continuing challenges it faces. Long live international cooperation.

**The President** (*spoke in Russian*): I thank Mr. Nahayo for his statement.

There are no more names on the list of speakers. I now invite Council members to informal consultations to continue our discussion on this issue.

*The meeting rose at 11.45 a.m.*

United Nations S/PV.6678

# Security Council

Sixty-sixth year

*Provisional*

**6678**th meeting

Wednesday, 7 December 2011, 3 p.m.

New York

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| *President*: | Mr. Churkin | (Russian Federation) |
| *Members*: | Bosnia and Herzegovina | Ms. Čolaković |
| | Brazil | Mrs. Dunlop |
| | China | Mr. Wang Min |
| | Colombia | Mrs. Duarte |
| | France | Mr. Briens |
| | Gabon | Mrs. Onanga |
| | Germany | Mr. Eick |
| | India | Mr. Hardeep Singh Puri |
| | Lebanon | Mr. Salam |
| | Nigeria | Mr. Onowu |
| | Portugal | Mr. Moraes Cabral |
| | South Africa | Mr. Nel |
| | United Kingdom of Great Britain and Northern Ireland | Mr. McKell |
| | United States of America | Mr. DeLaurentis |

## Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 15 November 2011 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2011/716)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506.

11-62592 (E)

Please recycle

Letter dated 16 November 2011 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2011/731)

*The meeting was called to order at 3.10 p.m.*

**Adoption of the agenda**

*The agenda was adopted.*

**International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991**

**International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994**

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**The President** (*spoke in Russian*): Under rule 37 of the Council's provisional rules of procedure, I invite the representatives of Croatia, Rwanda and Serbia to participate in this meeting.

**The President** (*spoke in Russian*): Under rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia; Judge Khalida Rachid Khan, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

On behalf of the Security Council, I welcome the presence at this meeting of His Excellency Mr. Andries Nel, Deputy Minister of Justice and Constitutional Development of South Africa.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to documents S/2011/473 and S/2011/716, which contain, respectively, the report of the International Criminal Tribunal for the Former Yugoslavia, and a letter dated 15 November 2011 from the President of the International Criminal Tribunal for the Former Yugoslavia addressed to the President of the Security Council.

I also wish to draw the attention of Council members to documents S/2011/472 and S/2011/731, which contain, respectively, the report of the International Criminal Tribunal for Rwanda and a letter dated 16 November 2011 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council.

I now give the floor to Judge Theodor Meron.

**Judge Meron**: It is a great honour for me to appear before the Security Council today as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to do so under the presidency of the Russian Federation. I congratulate Ambassador Churkin for his able management of the Security Council.

As the Council may be aware, I assumed the presidency of the Tribunal on 17 November. The report (see S/2011/716) that was submitted to the Council earlier this month details the work of the Tribunal under the leadership of my predecessor Judge Patrick Robinson. I would like to pay tribute to his outstanding achievements, which have significantly strengthened the ICTY. In particular, I would underscore his initiative to establish a victims' trust fund — a plan that has my full support. In that regard, I am pleased to note that the International Organization for Migration has secured funding to carry out a comprehensive assessment study.

Before I turn to the current state of the Tribunal, I believe it is fitting to underscore the significant successes that we have achieved. The recent arrests of indictees Goran Hadžić and Ratko Mladić mean that there are no outstanding fugitives. All living persons indicted by the Tribunal have been, or will be, tried in a court of law, either at the Tribunal or in courts of national jurisdictions.

With respect to legal doctrine, the greatest achievement of the Tribunal and of its sister court, the International Criminal Tribunal for Rwanda (ICTR), has been their contribution to developing substantive, procedural and evidentiary international criminal law. That corpus of jurisprudence outweighs by far that of Nuremberg.

I would also underscore that the Tribunal has made tremendous strides in assisting national judiciaries of the region of the former Yugoslavia through the War Crimes Justice Project and its outreach offices, as well as through its assistance in creating the War Crimes Chamber of Bosnia and Herzegovina. Partly due to the example and assistance of the Tribunal, national judiciaries in the former Yugoslavia are successfully prosecuting war-crimes cases. In that respect, I am pleased to note that the statute of the Residual Mechanism provides for assistance to be given to national judiciaries in response to their requests.

Let me now turn to the current state of affairs at the Tribunal. I note that the report of President Robinson gives details with respect to all cases currently pending before the Tribunal. My comments in that regard can therefore be brief.

The Tribunal continues to work as rapidly as possible, given the constraints imposed by limited resources and the need to ensure the highest standards of procedural fairness. Proceedings are ongoing against 35 persons — 18 at the trial level in seven cases and 17 at the appellate level in six cases. It is anticipated that judgements in six trials will be issued in 2012, with the Karadzić judgement issued during 2014. It is still impossible to predict when judgements will be issued in the cases of *Mladić* and *Hadžić*, who were recently arrested. One appeal judgement is expected to be delivered in 2012, with a further five delivered in 2013, including the two multi-accused cases of *Šainović et al.* and *Popović et al.*

I am acutely aware of the requirement of resolution 1966 (2010) that the Tribunals do all in their power to ensure the completion of all cases by December 2014. I would note that this resolution was adopted prior to the arrests of Mladić and Hadžić. All efforts will be made to complete their trials prior to December 2014, but appeals emanating from them will fall under the aegis of the Residual Mechanism.

It is also my duty as President to draw the Council's attention to the charts attached to President Robinson's last completion report, which indicate that the Tribunal may not be able to conclude appeals emanating from the *Tolimir*, *Šešelj*, and *Prlić* cases by December 2014. Further, according to the charts recently presented by the ICTR, the appeal, if any, of *Ngirabatware* may go to the Residual Mechanism because the notice of appeal would miss the July 2012 deadline. In addition, I am advised that the completion report's estimate for the translation of the Prlić case must be corrected. It is actually 21 months, reflecting an anticipated 4,000 or more judgement-sized pages. That said, the Tribunal will do its utmost to ensure that its proceedings are completed as expeditiously as possible, while ensuring that the fair trial rights of the accused are fully respected.

In line with that commitment, among my first acts as President was to review the Tribunal's activities to identify possibilities to reduce the time needed to complete appeals. On the basis of that review, I identified the translation of judgements as a potential area for exceptional measures. It is estimated that one ICTR trial judgement will take 18 months to translate. At the ICTY, the eventual judgement in one ongoing ICTY trial case is currently projected to take 21 months, while those in two others are each projected at nine months. Despite our resort to embedded translators in judgement drafting teams, the translation time represents a considerable impediment to a timely appellate process, with the risk of running beyond the target dates set by the Security Council.

Therefore, as President of the ICTY and the ICTR Appeals Chambers, I have instructed the Registrars of both the ICTR and the ICTY — Mr. Adama Dieng and Mr. John Hocking, respectively — to take immediate and exceptional measures to bolster the number of staff assigned to judgement translation and to make every effort possible to expedite translations, even if it means reverting to outside contractors. As I see it, after the various reforms already carried out in the Tribunals,

judicial work must run its course, or else the principle of judicial independence and fairness would be compromised. But I can certainly address the logistical question of translations, with the object of drastically reducing the time allocated to them through exceptional measures. My goal is to halve the translation time in the cases of *Butare*, with its seven appellants, *Prlić*, with its six potential appellants, *Šešelj* and *Tolimir*. I am pleased to report that both Registrars have committed in writing to that goal. I am also requesting the Registrars to ensure that those extraordinary measures do not significantly slow down translations of other judgements. Even with those efforts, however, I must underscore that the four appeals I have referred to may still not be completed by the target date of 31 December 2014.

A second measure that I am considering is directed towards minimizing the disruption caused to our substantive caseload by contempt proceedings. There are currently 10 outstanding contempt cases. The burden of those cases is, for the most part, borne by the Tribunal's eight permanent trial judges. Some of those judges are currently sitting on seven or eight contempt cases in addition to their substantive cases. This situation represents a real obstacle to the efficient completion of the Tribunal's substantive cases. Under these circumstances, it is my intention, unless I hear objections from the Security Council requiring additional steps, to depart from the previous practice of the Tribunal, which precluded assignment of the nine ad litem judges to contempt cases not arising from their trials, and assign them to any contempt cases which a fair and efficient distribution of the workload warrants. Of course, these assignments — and let me emphasize this — would not trigger an extension of service beyond the cases to which an ad litem judge has already been formally assigned.

Another serious matter that may severely impact the efficiency of our proceedings is the issue of staff retention. That problem was repeatedly raised by President Robinson, most recently and fully in his report to the Council of 15 November, and was referred to in the last three Security Council resolutions — 1931 (2010), 1954 (2010) and 1993 (2011) — concerning the Tribunal, in which the Council requested that the Secretariat assist the Tribunal in addressing this challenge. However, no progress was made in the meetings held in November with the Secretariat by President Robinson and separately by Registrar Hocking with respect to our modest proposals for a retention bonus in the form of a small termination indemnity of the type that is paid under staff rules to staff whose contracts are terminated or abrogated prior to the expiry of their term. While a termination indemnity may assist the Tribunal in retaining such critical, long-serving staff, it will not prevent staff departures, particularly with regard to the junior professionals in Chambers, a category critical for judicial work, where we have already suffered serious attrition.

In the Tribunal's view, many problems would be remedied if it were allowed to hire its most talented interns directly to open posts. In cases where an intern has participated in a trial for some time, allowing him or her to replace a departing staff member can ensure that retraining, which might cause months of delay, is rendered unnecessary. However, General Assembly resolution 51/226 is currently interpreted as preventing such interns from being employed by the Tribunal for a period of six months following the completion of their internships. Without an interpretation or authorization for the Registry, the Tribunal will be prevented from implementing this solution.

I would urge the Council to request the Secretariat to revisit this matter and come up with a pragmatic and flexible solution. Given the limited life of the Tribunal, the fact that it is not fully integrated into the Secretariat, and the interest of the Organization in the completion strategy, I believe that the case for a narrowly focused green light is compelling. I would therefore be grateful for the Council's explicit support for this proposal and for its assistance in obtaining the necessary assent for this cost-free measure, which would, in any event, apply only to a very small number of interns.

Finally, I would note that President Robinson has already drawn the Council's attention to the difficulty of finding additional places appropriate for convicted persons to serve their sentences. I would find it most helpful if the Council could reiterate the request it made in resolution 1993 (2011), asking States to cooperate with requests by the Tribunal relating to the enforcement of sentences.

Having reviewed the Tribunal's past successes and described our current work and challenges, I will turn briefly to the future. The establishment of the Residual Mechanism, with judges whose remuneration

will be per day of work only and who will be allowed to hold outside occupations, will inevitably present many challenges for the Tribunal. We are moving into uncharted territory. I personally am committed to making the transition to the Residual Mechanism and its functioning as smooth as possible.

Before I conclude, I would like to express how honoured I am to serve for a second time as President of the ICTY. I am privileged to follow in the footsteps of my two predecessors, Judges Patrick Robinson and Fausto Pocar. Their outstanding efforts have greatly strengthened the Tribunal.

Born of the darkness emanating from Yugoslavia's break-up, the Tribunal faced particularly difficult challenges in its early years. While the Tribunal will soon cease to exist, it will leave a world transformed, and its legacy will be an indelible testament to the international community's commitment to justice: the noblest of human ideals.

**The President** (*spoke in Russian*): I thank Judge Meron for his briefing.

I now give the floor to Judge Khan.

**Judge Khan**: I would like to begin by congratulating Judge Meron on his election as President of the International Tribunal for the Former Yugoslavia (ICTY) for the second time. I also congratulate the representative of the Russian Federation, who is presiding over the Security Council during the month of December, as well as the representatives of Azerbaijan, Guatemala, Morocco, Pakistan and Togo for their nations' election to the Security Council beginning in January 2012. I wish them all the best for a successful tour of duty.

I would also like to thank the representatives of Bosnia and Herzegovina, Brazil, Gabon, Lebanon and Nigeria for their nations' service to the Security Council as they near the completion of their term, and to express the appreciation of the entire Tribunal to all of the Governments of the countries that are members of the Security Council for their continued support as we draw ever closer to the completion of our work.

In particular, the Tribunal very much appreciates the swift action taken by the Council in resolution 1995 (2011), making ad litem judges eligible for election as, and able to vote in the election of, the President and Vice-President.

In this, my second address to the members of the Security Council, I am happy to report to the Council on the very positive progress we have made since my previous address (see S/PV.6545).

All of the judgements projected for completion during the past six months were delivered, and the final multi-accused trial judgement will be delivered in two weeks. Moreover, trial work is expected to be finished by June 2012, and appeals work is on track to be completed by the end of 2014.

In June, the Tribunal rendered a historic judgement in the *Butare* case involving six accused — the largest in our history — and on 30 September the Tribunal delivered the judgement in the case of *Bizimungu et al.* with respect to four accused. Judgement was also rendered last month in the single-accused *Ndahimana* case, and on 21 December judgement will be delivered in accordance with projections made to this Council since December 2010 in the final multi-accused, *Karemera et al.*

Currently, only one case remains in the evidence phase, and it is expected to finish by early 2012. After December, judgement will remain to be rendered in only three single-accused cases, all of which are projected to be delivered in the first half of 2012. If arrests are made in the three pending contempt cases in the near future, we anticipate that trials will begin in early 2012.

Next, I turn an important request that I recently sent to the Security Council and the General Assembly, seeking extension of the terms of office for a number of judges, to correspond to the work remaining. All the judges' terms are scheduled to end by June 2012, or earlier if they complete their assignments before then. The extensions are required to finish all judicial activities in accordance with the completion strategy. I also wish to add my support to Judge Meron's streamlining of the assignment of the ad litem judges to contempt cases. That will have a positive impact on the ability of the Tribunals to meet the completion strategy targets.

In June, for the first time the Tribunal referred a case to the courts of Rwanda for trial. The accused, Jean Bosco Uwinkindi, appealed the decision to refer his case. We expect this appeal to be decided shortly. If the Trial Chamber's referral is upheld on appeal, the case will be transferred to Rwanda, and the Prosecutor will bring a further four referral applications. They will

all be dealt with in the first half of 2012. However, should Uwinkindi's appeal be granted, his trial will not be referred to Rwanda. In that case, the Uwinkindi trial will take place at the Tribunal and is expected to finish by the end of 2012. The same may be true with respect to Bernard Munyagishari, who was arrested in May of this year.

There are still nine fugitives wanted for trial by the Tribunal. In order to help ensure that evidence is still available with respect to three of the most high-ranking fugitives — Félicien Kabuga, Protais Mpiranya and Augustin Bizimana — preservation of evidence proceedings under rule 71 bis have been taking place. The Prosecutor has concluded his preservation of evidence in all three cases. Under the Rules of Procedure and Evidence, the defence duty counsel for a fugitive accused is entitled to apply to preserve evidence as well. In *Kabuga*, the defence duty counsel's request to investigate was granted, and investigations are currently underway. In the other two cases, we have not received such a request.

I urge all Member States, especially those in the Great Lakes region, to redouble their cooperation efforts with the Prosecutor so that none of the fugitives escape justice.

As I stressed to the General Assembly in November (see A/66/PV.58), our greatest challenge for the coming months remains the retention of experienced staff. Nearly one third of Chambers legal staff have left for more stable employment just in the past few months. The departure of such experienced staff causes a loss of institutional memory, which greatly hinders our ability to work within projected timeframes. Moreover, staff who remain at the Tribunal are faced with a severely increased workload, which only serves to further lower morale and increase departures.

We appreciate that this Council continues to highlight in its resolutions the importance of maintaining adequate staff levels in the Tribunals. Continued efforts to improve flexibility in contractual terms are essential to ensure that we have adequate staff to meet our completion strategy goals. In this same context, I echo the concerns raised by President Meron regarding a problem faced by both Tribunals: the alarming rate of attrition of junior legal staff in Chambers. I strongly support his proposal to allow the most qualified interns to be hired as Tribunal staff without a six-month break, as that will greatly assist with maintaining adequate staffing levels for the Tribunals in our final months.

Another increasingly difficult problem that I would like to revisit is the relocation of acquitted persons. In national jurisdictions, a person acquitted of criminal allegations is set free and allowed to fully reintegrate into society. Because no formal mechanism exists for securing assistance from Member States to relocate them, persons acquitted by the Tribunal are forced to remain in safe houses in Arusha.

With two recent acquittals, the number of acquitted persons remaining under the protection of the Tribunal has increased to five, one of whom has been in Arusha for more than five years since his acquittal was confirmed by the Appeals Chamber. The Registrar has been working with the United Nations High Commissioner for Refugees to find solutions to this problem. We hope that Member States will support their forthcoming joint proposal in this regard.

Next, I would like to discuss an important programme that needs the support of Governments represented here. In 2004, the Tribunal, committed to helping Rwanda on its road to recovery, set up the UNICTR Clinic for Victims and Witnesses of the Rwandan Genocide. The Clinic has not only provided vital medical treatment for patients suffering from HIV/AIDS and diseases such as tuberculosis, sexually transmitted diseases and malaria, but it also provides one of the few available sources of comfort for its patients.

For these victims, the genocide may not have taken their lives, but it took away their dignity, their trust, and their security. With the help of the Clinic's highly trained staff and with counselling sessions, the patients are able to slowly gain this back. The Clinic's success can be seen in its statistics. In its first year, the Clinic provided treatment to about 200 patients. By 2011, that number has increased to about 1,000. The Clinic, which runs on voluntary donations, is facing closure due to the depletion of funds. I hope that the Governments represented here will consider contributing to the trust fund upon which the Clinic depends.

I will now provide an update on the preparations for the Arusha Branch of the Residual Mechanism for the International Tribunals.

The Arusha Branch is slated to begin its work in July 2012. In addition to the already heavy workloads, staff from both the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) are working tirelessly, under the coordination of the Office of Legal Affairs, to prepare for the transition. Among the work already completed is the provision of substantive inputs to the Mechanism's first budget proposal. Both Tribunals have also provided, and will continue to provide, comments on the draft Mechanism Rules of Procedure and Evidence.

The Arusha Branch of the Residual Mechanism will also be the home of the ICTR archives. Those archives will hold the nearly 900,000 pages of transcripts and audio and video recordings of more than 6,000 trial days, as well as more than 10,000 interlocutory decisions and the judgements of all persons accused at the trials. As one of our longest-lasting, most permanent legacy projects, the archives will help to ensure that the international community remains conscious of the battle against impunity that the ICTR has fought for so many years.

In the coming months we also intend to focus on continuing the Tribunal's legacy work in the region. It is with that in mind that we are planning a regional international criminal law workshop for lawyers, scholars and judges in East Africa in early 2012.

The Tribunal has taken great steps forward in the past six months, and our work is almost complete. Looking back upon the many years of hard work by the entire Tribunal, there is much to be proud of.

The creation of ad hoc tribunals was a ground-breaking move by the international community, premised on the noble goals of accountability, justice and ending impunity. Building upon the framework of their predecessors, the Tribunals have served as a bridge to more recent internationally supported tribunals and courts. Together, we have developed international criminal law from its embryonic stage. The tribunals are thus compelling proof of our shared evolution towards a more effective system of international justice, one in which perpetrators of genocide, war crimes and crimes against humanity are held accountable.

As a part of our mandate to contribute to lasting peace and reconciliation in the region, the Tribunal has given a voice to thousands of victims. The Tribunal has heard over 26,000 hours of testimony from more than 3,200 witnesses. Their testimony describing the horrific events of a genocide will remain forever engrained in the memories of all who have been a part of that important process. In is in their honour that during our final months we work with renewed vigour, rededicating ourselves to preserving the memory of the victims of the Rwandan genocide and leaving for posterity the lessons we learned and the experience we gained at the ICTR.

**The President** (*spoke in Russian*): I thank Judge Khan for her briefing.

I now give the floor to Mr. Brammertz.

**Mr. Brammertz**: I thank the Council for this opportunity to speak on our progress towards the completion of our mandate.

The major development over the last reporting period has been the arrest of the Tribunal's last fugitive, Goran Hadžić, and, as President Meron already mentioned today, of the 161 persons indicted by the International Tribunal for the Former Yugoslavia (ICTY), none remain at large.

The significance of that development is multi-layered and goes well beyond simple statistics. The arrests mean that no individual has ultimately escaped the ICTY's reach and that the final impediment to completing our mandate has been removed. The arrests also mean that an important and problematic chapter in Serbia's cooperation with the ICTY has been closed, even if it took too long and redress for the victims was much too delayed.

We hope that the arrests also mean brighter prospects for international justice. Over the past two decades, international justice has spread to more and more parts of the globe, but difficulties in arresting key suspects are all too common.

It is worth reflecting on the ICTY's success and applying the lessons we have learned to other courts and tribunals. If the ICTY has no more fugitives, it is because the international community understood that sometimes justice is a long-term project. It is because the international community maintained pressure and provided positive incentives for Serbia to choose accountability over impunity and the rule of law over misplaced loyalty to war criminals.

With Radko Mladić and Goran Hadžić in custody, we are now fully occupied with finishing our trials and appeals. The completion strategy is fast becoming a reality. The evidence presentation in the majority of our trials will likely conclude in the next reporting period. Our focus will then be on the remaining trials — Karadžić, Mladić and Hadžić — as well as on managing our appellate case load as it rapidly expands throughout the course of next year. The departure of key staff in the midst of our cases is an ongoing problem requiring careful consideration and smart solutions.

As long as we have ongoing cases, the cooperation of States, particularly in the former Yugoslavia, will remain essential. When it comes to Serbia, the arrest of the final two fugitives put our cooperative relationship on a new, more positive footing. In my written report, I have acknowledged the good work done by the authorities in Belgrade under the leadership of the President, particularly the National Security Council, the action team established to track the fugitives, and the Security Service operatives who carried out the arrest operations. We are also grateful to Serbia's National Council for Cooperation with the Tribunal, which coordinates responses to our requests for assistance. Thanks to the Council's work, we receive the information we need for our cases promptly, allowing us to meet our tight court deadlines.

In the next reporting period, we want to see results from Serbia's investigation into how ICTY fugitives, including Mladić and Hadžić, managed to evade justice for so many years. Following the final two arrests, Serbia undertook to hold accountable any individuals who assisted the fugitives. During my visit to Belgrade in November, I saw very little follow-through on this issue, and we expect more to be done by Serbia.

I turn now to cooperation between my Office and Croatia. With no ongoing trials involving Croatian accused persons, my Office is making far fewer requests for assistance to the Croatian authorities. The limited requests we have made were adequately dealt with by the department for cooperation with international courts.

During my last statement to the Security Council (see S/PV.6545), I mentioned our concern about statements from high-level Croatian authorities questioning the validity of the ICTY's work. Our concerns have been reinforced in the present reporting period. State officials at the highest level in Croatia continue to glorify illegal wartime conduct and question the impartiality of the ICTY's judgements. Legislation recently passed to annul war crimes indictments issued by Serbia against Croatian citizens reinforces our concerns.

In relation to Bosnia and Herzegovina, I can report that the day-to-day cooperation with my Office is proceeding well. However, we see troubling signs that the national war crimes strategy is struggling and urgent action is required to turn the situation around. The case of *Radovan Stanković* is symptomatic of the broader problems. Stanković, a so-called Rule 11 bis transferee from the ICTY, was convicted by the State Court of Bosnia and Herzegovina and sentenced to 20 years of imprisonment. He escaped from prison in Foča more than four years ago, yet very little has been done to return him to custody. We struggle to understand why the authorities in Bosnia and Herzegovina appear unconcerned about a fugitive who has committed crimes against its own citizens and who has scorned their judicial process. Neighbouring countries also have a role to play in resolving the Stanković situation. Here, too, little action is visible, despite our repeated requests that more be done.

More generally, during my trip to Sarajevo a month ago, I noted limited political will and insufficient resources to complete the remaining war crimes prosecutions. There is a large backlog of cases, including investigation files transferred by the ICTY, and cases are not efficiently moved between State and entity-level prosecutors. We also remain deeply concerned by frequent political attacks on the judiciary in Bosnia and Herzegovina, which undermine the national war crimes strategy. We ask the international community to help Bosnia and Herzegovina steer a more successful course towards accountability for wartime atrocities.

As the completion strategy builds momentum, so too do our preparations for the Residual Mechanism. In this reporting period, we continued to work together with our colleagues in the ICTY Registry and the International Criminal Tribunal for Rwanda Office of the Prosecutor to facilitate a smooth transition. We have heard and understood the Council's message that the Mechanism must be a small and efficient operation. Our first budget proposal for our counterpart office

within the Residual Mechanism was drafted with that message firmly in mind. We have kept costs to a minimum by ensuring that the majority of posts are double-hatted with the ICTY for the first phase of the Residual Mechanism's operations.

Sixteen years after the Dayton Peace Accord, we have delivered the long-awaited news that all ICTY indictees have been, or soon will be, held accountable. That positive development renews our energy for the work ahead, but at the same time we see another significant challenge looming. National war crimes strategies in the region, particularly in Bosnia and Herzegovina, are floundering. If they are left to fail, the ICTY's legacy, along with reconciliation and the rule of law, will be endangered.

It would be easy to dwell on those problems. Instead, I want to end by emphasizing the opportunity that now presents itself for leaders in States of the former Yugoslavia. If they have the courage and commitment, those leaders could choose a future built on accountability and the rule of law, instead of nationalism and strife. But to succeed they will have to put aside narrow-minded and short-term political agendas. The international community, too, has a critical role to play. We ask the Security Council to show the same commitment and vision in helping States in the region cement their commitment to justice, as it has shown over the past two decades in building the ICTY's success.

**The President** (*spoke in Russian*): I thank Mr. Brammertz for his briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

**Mr. Jallow**: First of all, I would like to place on record my deep appreciation for the decision of the Security Council to renew my mandate as the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) for a further term. I am indeed greatly indebted to the Council and to His Excellency the Secretary-General for their continued support to me and to the ICTR in the discharge of our responsibilities. I look forward, with their support, to a timely and proper completion of the ICTR mandate during this term.

Some 17 years following its establishment — after 93 indictees, 83 arrests, the conclusion of the trials of 70 accused persons, with 60 convictions and 10 acquittals, the discontinuation of the trial of five accused persons and the referral of two accused to France for trial, and with nine fugitives at large — the ICTR is today on the verge of concluding an important phase of its mandate, that is, the completion of all trials at first instance.

In the past six months, we have concluded trial proceedings in respect of four accused persons. The only ongoing trial is *Augustin Ngirabatware*. As of now, trial judgements have been rendered in all the multi-accused cases except *Karemera et al.*, which is scheduled for December. While proceedings for the preservation of evidence in terms of Rule 71 bis against the three top fugitives — Kabuga, Mpiranya and Bizimana — are still ongoing, I am pleased to report that much progress has been achieved, as the prosecution phase of such proceedings has been concluded in all three cases.

Currently, there are only two detainees at the ICTR, namely, Uwinkindi and Munyagishari, whose cases are pending trial. In a landmark decision delivered in June, the ICTR Referral Chamber granted the request of the Prosecutor for the *Uwinkindi* case to be referred to Rwanda for trial under Rule 11 bis of the ICTR rules. The Chamber did so on the conviction that having regard to the legal framework in that jurisdiction, the capacity-building efforts to improve the legal system of Rwanda and the arrangements made for the monitoring of the trial in Rwanda, the accused would have a fair trial in Rwanda. That is the first case of an indictee being referred by the ICTR for trial in Rwanda, or indeed in any African jurisdiction.

The case is now pending in the Appeals Chamber of the ICTR. The decision of the Appeals Chamber will either way impact on the ICTR Completion Strategy. If the referral is confirmed, I expect that it will pave the way for the transfer of the only other remaining detainee for trial. We shall also proceed with the hearing and determination of requests already filed for referral in respect of two other cases. In addition, I shall file additional applications for the referral of four of the remaining fugitives, leaving only the cases of the three top fugitives.

Litigation over the referral of cases will therefore be a significant aspect of our workload in the months ahead. A confirmation by the Appeals Chamber of the

referral may therefore result no new trials being commenced at the ICTR.

My office will also be focusing on the prosecution and management of appeals, the tracking of fugitives, the servicing of foreign requests for assistance and preparing for a smooth and effective transition to the Residual Mechanism. Following the delivery of judgements in two multi-accused trials and one single-accused trial, involving 15 accused, and with further judgements anticipated in Karemera and another case, and in three single-accused trials, involving five more accused — for a total of 20 — my Office expects a significant increase in the workload of our Appeals and Legal Advisory Division during 2012 and part of 2013. The Division is already fully occupied prosecuting and responding to numerous appeals in a number of other cases, involving 18 accused persons and 24 separate appeals.

The tracking and arrest of the remaining nine fugitives remains a major challenge for a timely and proper completion by the ICTR, and therefore remains one of the priorities of the Office of the Prosecutor. The tracking and arrest of the remaining nine fugitives remains one of the priorities of the Office of the Prosecutor. We plan to intensify activities in that regard, in an effort to reduce the workload for the Residual Mechanism by transferring a smaller number of fugitives to it when its Arusha branch commences its work, on 1 July 2012. I have therefore continued diplomatic engagement with relevant States, with a view to securing their cooperation in the tracking and arrest of the remaining fugitives. Those initiatives complement the continuous efforts of the Tracking Unit in my Office. I am hopeful that with greater cooperation, in particular from member States of the Great Lakes Conference, the many fugitives located in the territories of the Conference will be arrested and brought to account, thereby serving the interests of both global justice and regional peace and stability.

The joint ICTR-Kenya Police Task Force has been reactivated and operating since November 2010 to secure the arrest and transfer of Félicien Kabuga to the ICTR for trial. Kenya must cooperate fully with the ICTR to bring the matter to a satisfactory conclusion. I wish to record our appreciation of the involvement of other Member States that have contributed to the work of the Task Force.

Difficulties continue with regard to the apprehension of Protais Mpiranya, another top-level fugitive earmarked for trial by the Residual Mechanism. Reliable information received by the ICTR indicates Mpiranya's presence in Zimbabwe. The Security Council should request that both Kenya and Zimbabwe fully discharge their legal obligations in that respect and cooperate with the ICTR.

In order to further effectively prepare for the transition to the Residual Mechanism and to reduce its workload, my Office is currently updating the case files in respect of six fugitives to ensure their readiness for trial before the Residual Mechanism or for transfer to a national jurisdiction, as the case may be. That exercise is expected to conclude by the end of the first quarter of 2012.

The steady increase in the number and origin of foreign requests to my Office in support of national investigations and prosecutions is a strong indication of the growing partnership between national systems and international courts in combating impunity through legal accountability. In 2010, my Office received and attended to 143 such requests from 12 countries. In the period from January to November, we processed 106 such requests from 26 Member States. The continued growth in the number of such requests, as well as the number of Member States utilizing the service, are expected to take up significant time and resources of the Residual Mechanism. In that respect, we are committed to ensuring that the Mechanism will be able to effectively continue providing that important service to Member States.

**The President** (*spoke in Russian*): I thank Mr. Jallow for his briefing.

I shall now give the floor to members of the Council.

**Mr. Nel** (South Africa): Allow me to thank President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) Judge Theodor Meron and President of the International Criminal Tribunal for Rwanda Judge Khalida Rachid Khan for their briefings. We also express our gratitude to the Prosecutor of the ICTY, Mr. Serge Brammertz, and the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), Mr. Hassan Jallow, for their interventions.

We note the progress made by the two Tribunals to complete the cases before them. We are encouraged by the efforts that the Tribunals have made to ensure the completion of their work in time for the start of the International Residual Mechanism for Criminal Tribunals. In the course of the month, the General Assembly will elect the 35 members of the Residual Mechanism. That should remind us of the urgency of bringing the remaining cases to a close as soon as possible.

We strongly support the need to provide sufficient resources to the Tribunals to assist them in completing their work. We recognize the difficulty in retaining staff as the Tribunals begin to wind down their work and staff search for stable employment elsewhere. We therefore remain committed to exploring innovative ways to retain competent staff members, including through incentives, as appropriate.

One important way to assist the Tribunals in completing their work is through the referral of cases to relevant and appropriate domestic jurisdictions. We have noted the applications to refer cases to Rwanda and the decision of the ICTY to refer a number of cases involving low- and middle-level accused to national courts in the regions.

Our delegation remains concerned about the unwillingness of Member States to enter into agreements with the ICTR for the transfer of individuals who either have served their sentences or have been found not guilty. We urge Member States, particularly in the immediate region and where family members of the individuals are located, to consider reaching such agreements with the Tribunals. We welcome the report that, in July, one convicted person was transferred from Arusha to a Member State. We also express our appreciation to the Government of Tanzania for its willingness to provide facilities in the interim, in particular safe houses.

South Africa stresses the importance of cooperation with the Tribunals, in accordance with the respective statutes, in particular article 28 of the ICTR statute and article 29 of the ICTY statute, and the relevant Security Council resolutions. We especially stress the obligation to cooperate with the Tribunals in effecting the arrests of those wanted. This year, we have seen substantial progress in that regard with the arrest of the key indictees Bernard Munyagishari, Ratko Mladić and Goran Hadžić. We urge Member States to step up efforts to locate, capture and, ultimately, surrender the remaining nine fugitives to the ICTR.

Finally, we wish to register our appreciation of the cooperation between the ICTR and the ICTY and the Office of Legal Affairs in doing the necessary work in preparation for the Residual Mechanism, including the preparation of a joint budget and the work on the rules of procedure.

**Mr. Moraes Cabral** (Portugal): First of all, I wish to thank the Presidents and the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their very comprehensive and useful briefings. Allow me a special word to congratulate Judge Meron on his recent election as President of the ICTY, to wish him all the best and, through him, to convey to Judge Robinson our appreciation for the excellent work as President of the Tribunal.

Some major progress has been made in the implementation of the completion strategies of the ICTY and the ICTR in the period covered by the latest reports of the Tribunals and the Prosecutors.

First and foremost, of course, is the capture of Ratko Mladić and, more recently, Goran Hadžić, the remaining ICTY fugitives. That is a development with vast implications for the fight against impunity in the Western Balkans. It has also removed an important stumbling block in Serbia's European path. Also important is the capture of Bernard Munyagishari, which was a good example of fruitful cooperation between the ICTR and the national authorities of the Democratic Republic of the Congo. We also welcome the fact that the ICTR has worked hard to stay on track to complete all of its trial work by mid-2012.

In short, in the past six months, the Tribunals have continued to perform their invaluable work in the field of accountability for the worst crimes in a most professional way under difficult circumstances. Both Tribunals have also made valuable contributions to the setting up of the International Residual Mechanism for Criminal Tribunals in due course, including by contributing to the ongoing drafting process of its rules of procedure and evidence, the preparation of the budget and other necessary activities.

As Chairman of the Informal Working Group on International Tribunals, I wish to commend the support of both Tribunals and the Office of Legal Affairs in the many different tasks of that rather complex process aiming at enabling the Residual Mechanism to perform fully its functions from day one, that is, from 1 July 2012. I also seize the opportunity to thank all members of the Working Group for their cooperation in that collective task and for their support to the Chair.

That brings me to the challenges ahead. They are of two sorts: first, staff and resources; and secondly, national and regional ownership and cooperation.

On the first challenge, both Tribunals share a grave concern about the effect that staff attrition and recruitment issues are having on their ability to fulfil the completion strategies endorsed by the Council. Despite a number of Security Council resolutions recently adopted referring to the issue, the problem persists, and even seems to increase in intensity. Creative, realistic and cost-effective solutions to the issue need to be found and implemented as a matter of urgency.

We therefore encourage practical and ad hoc solutions, such as those put forward by Presidents Meron and Khan concerning retention incentives and the waiver of the six-month rule for application for professional posts, which could be of tremendous practical help in the context of the Tribunals' completion strategy. We have to bear in mind the particular nature of the Tribunals as judicial bodies that require a distinct or, at least, a more flexible interpretation of the general administrative norms. Those norms were meant to regulate the administrative bodies of the Secretariat, not the Tribunals. Moreover, we cannot forget the need to align that interpretation with the particular situation of those judicial bodies, which are struggling to abide by trial deadlines while pursuing the process of discontinuing all court activity.

Conversely, the measures suggested by President Meron to expedite translations and, in particular, his intention to assign ad litem judges to contempt cases, may indeed have important and beneficial repercussions in speeding up the work of the Tribunal in line with the completion strategy. As such, those measures are welcome management improvements.

With regard to the second challenge, as the Tribunals enter the final stages of their work, the issue of national and regional ownership in the fight against impunity for the war crimes committed in Rwanda and the former Yugoslavia acquires new importance. In that context, we welcome the significant outreach and capacity-building efforts by the Tribunals aimed at strengthening local judicial institutions and raising awareness among members of civil society. Through those efforts, the ICTY and the ICTR are ensuring that their legacy of accountability and reconciliation will bear fruit in a lasting way.

An essential element of regional ownership is the extent to which States cooperate among themselves in war crimes investigations and prosecutions. We encourage strengthened cooperation in that regard. We should not forget the large volume of war crimes cases that remain to be domestically prosecuted.

Also, we cannot overstate the importance of cooperation with the Tribunals and, in that regard, the need to arrest the nine remaining fugitives being searched for by the ICTR. In that respect, we urge the Democratic Republic of the Congo to continue efforts to facilitate the arrest of those fugitives, and we encourage the Kenyan authorities to continue their cooperation in tracking the whereabouts of Félicien Kabuga.

As we approach the end of the Tribunals' work and the projected number of convictions, we have to be prepared for the increasing number of requests from the Tribunals addressed to States to host convicted persons to serve their sentences and to respond to the need to find appropriate and prompt responses to those requests. We also must find definitive solutions to address the situation of the acquitted persons, such as those referred to by the President of the ICTR, who remain under protective measures in safe houses in Arusha because they cannot safely return to their communities or find host countries willing or able to accept them. That is an unsustainable situation with human rights implications, and a prompt solution must be found.

In conclusion, Portugal wishes to congratulate the Presidents, Prosecutors and staff of the two Tribunals on their outstanding work. Above and beyond the important trial-related activities under the completion strategy, they are also laying the groundwork for the future. They are helping to set up the Residual Mechanism and are assisting the countries of the respective regions, their judicial authorities and their

civil societies as they take over the vital task of fighting impunity for the gravest of crimes.

**Mr. Eick** (Germany): I would like to start by once again expressing Germany's full support for the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and for their invaluable contributions to the fight against impunity for serious international crimes. I also thank President Meron and President Khan, as well as the ICTR and ICTY Prosecutors, for their reports (see S/2011/716 and S/2011/731) and commend them on their significant achievements in recent months. Let me assure them that we have taken note of their proposals and ideas to improve the efficiency of the Tribunals and that we stand ready to support them in those endeavours.

In that context, we share the view of President Meron that the existing prohibition on the employment of interns by the Secretariat for a period of six months after the completion of their internships does not, by its rationale, apply to a Tribunal that is in the process of closing down.

We note with concern that, in the course of the downsizing of the Tribunals in preparation for the completion of their work, both are facing serious challenges in retaining staff. That creates an immense workload and places a heavy burden on remaining staff. We welcome the Security Council resolutions adopted in that regard, most recently resolution 1993 (2011), which called upon the relevant United Nations bodies to intensify cooperation with the Tribunals and to take a flexible approach in order to find practicable solutions to address the issue. Although the Tribunals are approaching the final phase of their respective completion strategies, we should remain mindful that important work remains to be done.

The arrest and transfer to The Hague of the long-sought fugitives Ratko Mladić and Goran Hadžić heralds the approaching end of impunity for serious international crimes committed in the former Yugoslavia. It also proves that the level of influence and acceptance of the ICTY in the region of the Balkans is high. It is that acceptance and support that enables the ICTY to significantly contribute to lasting peace and reconciliation in the region by bringing justice to the victims and their families. With regard to the ICTR, we welcome the judgement delivered this year in the "Butare" case against six accused.

The cooperation of States is a crucial prerequisite for the work of the Tribunals. Their support enables the Tribunals to complete their mandates. The Tribunals depend on the will and the actions of the States — of all States — not only those directly concerned because they have become a harbour for fugitives, but also those that have access to relevant information and evidence. We therefore recall the obligation of all States to fully cooperate with the Tribunals, which is, and remains, essential for the Tribunals' functioning.

With regard to cooperation between the ICTY and the region of the Balkans, we appreciate that States remain committed to meeting their obligations towards the Tribunal. We note with appreciation the cooperation of Serbia, Bosnia and Herzegovina and Croatia with the ICTY during the reporting period. In particular, Serbia's efforts to apprehend the last two fugitives and transfer them to The Hague are a welcome demonstration of its commitment to the ICTY and its goals.

It is of the utmost importance to bring to justice those who have been indicted. Therefore, we also commend the cooperation of the Democratic Republic of the Congo with the ICTR, which led to the arrest and transfer of the long-sought fugitive Bernard Munyagishari on 25 May. However, it is a matter of concern that nine accused and internationally sought persons still remain at large, among them the three most high-ranking fugitives. Germany calls on the international community and, in particular, on the concerned States of the region to ensure that all possible efforts are made to bring those persons to justice.

The Security Council, in its resolutions 1503 (2003) and 1534 (2004), emphasized that the transfer of lower- and mid-level accused to competent national jurisdictions for trial was an essential prerequisite for the completion of the work of the Tribunals. The cases of 13 accused have been referred to national authorities in the Balkans to date.

Germany welcomes the ongoing efforts of Rwanda to strengthen both its national legal system and its ability to adjudicate cases referred by the ICTR. Germany expresses the hope that the reforms in Rwanda will ultimately permit the ICTR to refer the cases of lower-level accused to Rwandan courts for trial.

With respect to the transition of both Tribunals to the International Residual Mechanism for Criminal Tribunals, we note that both Tribunals are taking the measures necessary to facilitate a smooth handover. We commend them for realizing gains from increased efficiencies in trial management in order to handle the remaining cases effectively. Although the late capture and transfer of fugitive indictees may have led to certain delays, we are confident that the respective deadlines will be met for the completion of the transition to the Residual Mechanism. In that context, we also sincerely acknowledge the contribution that the Office of Legal has made in order to render the Residual Mechanism operational.

**Mr. McKell** (United Kingdom): I would like to begin by expressing the United Kingdom's continued support for both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Their work is essential to combat impunity and deliver justice to victims in the former Yugoslavia and Rwanda.

I would like to thank President Meron and President Khan and Prosecutors Brammertz and Jallow for their very comprehensive briefings and reports. Furthermore, while congratulating and welcoming Judge Meron on his return to the office of President of the ICTY, I would also like to express our thanks to Judge Robinson for his years of service as President. We wish him well for the future.

We would like to praise the Serbian Government, police force and judiciary for the apprehension and transfer of Goran Hadžić and Ratko Mladić. As the report states (see S/2011/716), those arrests represent important milestones for the Tribunal and for international justice. It is important that the work of the ICTY be organized efficiently over the coming months, to take account of the extra work that those cases will generate. The arrest and transfer of both Mladić and Hadžić are evidence of Serbia's continued commitment to cooperating with the Tribunal and are indeed milestones for international justice. However, it is important that Serbia's support continue. Questions remain on how it was possible for two high-profile fugitives to evade capture. We encourage the Serbian authorities to continue their good work and ensure that all people found to be responsible for supporting a former fugitive be held accountable for their actions.

In general we are pleased with the levels of cooperation that have been provided by Croatia. As with Serbia, Croatia's ongoing cooperation with the Tribunal remains essential. We also share the concerns that the report raises on the greetings sent by Prime Minister Kosor to Generals Gotovina and Markać, both of whom have been convicted of war crimes and crimes against humanity. We reiterate the importance of Croatia demonstrating full cooperation with the Tribunal. In that regard, we note that the European Union Commission's monitoring will focus in particular on commitments undertaken by Croatia in the area of the judiciary and fundamental rights. That remains an essential part of the European Union accession process.

We note the difficulties that have been highlighted as a result of the Tribunal's staffing levels and we are mindful of the extra burden that this has placed on the current staff members. We remain grateful for their ongoing efforts and understanding. The level of staffing in both Tribunals will continue to be an issue as they each complete their work. Until a solution is found for that problem, we encourage the Tribunal to prioritize its staffing resources as effectively as possible.

We support the efforts of President Meron to reassign ad litem judges to address the large number of contempt cases and we welcome the assurance that such reassignments will not result in the extension of the terms of office of those judges. Furthermore, to try to tackle the difficulties related to staff retention, we believe that it would be appropriate to revisit the interpretation of the regulations applying to the six-month prohibition on hiring people who have served as interns. In supporting that action we note that there would be no financial implications for the United Nations.

Moving on to the ICTR, we remain concerned by the number of indictees that remain at large. The Tribunal's mandate cannot be completed until all of those individuals are apprehended. We encourage all United Nations Members, especially Kenya and Zimbabwe, to provide the Tribunal with their full cooperation, in order to ensure that all individuals are brought to justice. Regretfully, we note that once again the ICTR report (see S/2011/731) states that there will be a short delay in the *Ngirabatware* trial. The United Kingdom remains concerned about the impact that further delays will have on the Tribunal's ability to

meet the deadlines that have been agreed in the completion strategy. To address that issue, we encourage both Tribunals to explore ways to share best practices, in an effort to avoid further slippages. It is also important for the continued success of the completion strategy that lower level cases be transferred smoothly to national jurisdictions under Rule 11 bis.

**Mr. Onowu** (Nigeria): Let me join others in thanking the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their instructive briefings on the work of both Tribunals.

Nigeria welcomes the substantial progress made by those important bodies during the reporting period towards meeting the objectives in their completion strategies reports. Regrettably, staffing shortages continue to hinder the pace of their work, despite persistent requests, including by members of the Security Council, for measures to enable them to retain and replace staff. We must therefore urgently find a solution to the staffing challenges, one that gives the Tribunals the capacity to expedite their proceedings. In so doing, we are not only giving expression to the provisions of resolutions 1954 (2010), 1955 (2010) and 1993 (2011) but we are also ensuring the timely implementation of the completion strategies. Our point of departure should be the staff retention and recruitment measures suggested by the Tribunals.

Effective and sustained cooperation with the Tribunals by Member States remains the crucial vehicle for attaining their core priority goals. The arrest and prompt transfer of Ratko Mladić and Goran Hadžić to The Hague exemplify the cooperation that should exist between Member States and the Tribunals. That cooperation is also essential to address all outstanding issues. Of equal significance is the arrest of Bernard Munyagishari by the authorities of the Democratic Republic of the Congo in cooperation with the ICTR. Such cooperation is required to underpin the Tribunal's efforts to track the remaining nine fugitives and in relocating acquitted or convicted persons. We share the Secretary-General's assessment that those arrests will not only reduce the Residual Mechanism's responsibilities and the costs of tracking fugitives but it will also enable the Tribunals to meet their completion strategy targets.

Given that capacity-building and outreach activities constitute important aspects of the mandate and legacy of both the ICTR and the ICTY, we commend both Tribunals for increasing their activities in both respects, especially in helping States to strengthen their capacity to prosecute alleged violations of international humanitarian law in their own courts. We also commend those Governments and organizations that have supported those efforts. Indeed, the international community should remain unrelenting in its support for those activities.

In our view, the preparation of a draft proposal on rules of procedure and evidence of the Mechanism is an invaluable step in the effort to implement resolution 1966 (2010) and ensure a smooth transition to the Residual Mechanism. We support the plans for the transition to the Mechanism of the Tribunals' archives management functions and information and telecommunications technologies systems and infrastructure. Needless to say, sustained coordination within and between the Tribunals and the Offices of the Prosecutors remains crucial to ensuring a smooth transition to an efficient and effective Residual Mechanism.

Nigeria will continue to support the efforts of the Tribunals in establishing accountability for genocide, war crimes and crimes against humanity. We commend the Presidents and the Prosecutors of the ICTY and ICTR for their dedicated leadership and unwavering commitment to justice and the rule of law. We also appreciate the contributions of the Informal Working Group on International Tribunals, under the able leadership of Ambassador Moraes Cabral, to this noble endeavour.

**Mrs. Dunlop** (Brazil): I also thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda for their informative briefings and reports.

This debate is timely, especially in view of the upcoming elections for the roster of judges of the Residual Mechanism. Brazil takes this opportunity to reaffirm its understanding that committed judges are the pillars of any tribunal. We also commend the Presidents and the Prosecutors efforts towards the fulfilment of the remaining judicial functions of their institutions in a timely manner. Both reports (see S/2011716 and S/2011/731) address issues that are

relevant to the current activities of the Tribunals and to the legacy that those institutions will leave to the international justice system. I would like to touch on some of those issues today.

It is remarkable that, with the arrests of Ratko Mladić and Goran Hadžić, there are no outstanding fugitives from the International Criminal Tribunal for the Former Yugoslavia. The nine fugitives from the International Criminal Tribunal for Rwanda who remain at large remind us of the importance of effective cooperation with Member States as a cornerstone of the fulfilment of the Tribunals' mandate. Brazil emphasizes the fundamental value of a close institutional relationship between the Tribunals and national judicial systems.

The issue of staff retention should be dealt with as a matter of priority by all relevant United Nations bodies in the context of the ongoing completion strategies. As the Tribunals approach the end of their judicial activities, retaining adequate levels of staff will have a positive impact both on the institutions' productivity and in the wake of the judgements to be delivered. Brazil follows with interest the measures that the Tribunals are taking in implementing their completion strategies. A smooth transition to a lean and efficient residual mechanism is a fundamental element in the fight against impunity and in the quest for judicial accountability — two of the most important contributions the Tribunals have made to international justice.

We all know that judicial decisions alone cannot bring peace and reconciliation to a region. Accountability and the prevalence of the rule of law must be part of the social equation that can ensure national unity and progress. Such a scenario cannot be attained from Arusha or The Hague alone. It is particularly important to bring the Tribunals closer to the communities involved in the events they are mandated to investigate. Brazil commends the efforts of both Tribunals in improving awareness of their work among students, international and local researchers, legal professionals, journalists and others. It is crucial to emphasize capacity-building activities with legal professionals in the areas affected by these crimes. We strongly believe that the cooperation both Tribunals provide in capacity-building and the training professionals of national judicial systems constitutes an important part of their legacy and therefore of their contribution to lasting peace.

**Mr. Salam** (Lebanon) (*spoke in Arabic*): I would also like to thank the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda, as well as the two Prosecutors, for their exhaustive briefings.

I would like to begin by expressing our satisfaction with the progress that the two Tribunals have made in the past six months towards completing all their trials diligently and without neglecting the demands of justice. We welcome the parallel measures that have been taken in order to guarantee the transition to the Residual Mechanism as called for in resolution 1966 (2010). We fully understand the difficulties discussed in the reports (see S/2011/716 and S/2011/731) that both Tribunals face in completing their work in a timely fashion. That is the reason that we call for the adoption as soon as possible of a practical solution to the issue of retaining the Tribunals' specialists and ensuring the replacement of those who leave for more permanent posts, as that will avert any delays in the Tribunals' work. In that regard, we would like to recall resolutions 1993 (2011) and 1995 (2011).

We would also like to express our satisfaction at the arrests of the two remaining fugitives from the ICTY, namely, Ratko Mladić and Goran Hadžić. We call on Rwanda's neighbouring countries to strengthen their cooperation with the ICTR in order to ensure the arrest of the nine remaining fugitives. We also believe that it is important to give adequate attention to those who have been freed but who have not been able to return to their homes or be reintegrated into society, which undermines their fundamental right to a decent and safe life with their families.

As we come to the end of the year, we would like to commend the Informal Working Group on International Criminal Tribunals, chaired by Portugal, for its efforts and constructive role in contributing to the success of the Tribunals and assisting in the transfer to the Residual Mechanism. Lebanon's view is that the juridical work and opinions of the Tribunals have contributed to combating impunity and to rendering justice for victims, as well as greatly enriching and advancing international criminal law and strengthening the rule of law, nationally and internationally. Finally, I should like to reaffirm that there can be no stability or peace without genuine justice.

**Mr. Wang Min** (China) (*spoke in Chinese*): I would first like to thank the President and Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY), Judge Meron and Mr. Brammertz, as well as the President and Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), Judge Khan and Mr. Jallow, for their briefings. I would also like to take this opportunity to congratulate Judge Meron on his election to the presidency of the ICTY.

I would like to make the following comments on the work of the two Tribunals. First, both have entered a critical wrap-up period. All ICTY fugitives have now been arrested. And all ICTR trials have now reached their final stages, with the pre-trial phases of all cases remaining expected to be completed in the first half of next year. We note both Tribunals' progress and urge them to continue to take effective measures in accordance with the provisions of resolution 1966 (2010), in order to enable them to complete all their work by the end of 2014 and achieve a smooth transition to the Residual Mechanism. We hope that the relevant United Nations bodies and other organizations will work together to actively explore flexible and feasible ways to address the Tribunals' difficulties with staff retention.

Secondly, we welcome the cooperation of Serbia and the Democratic Republic of the Congo, as well as of the countries in the relevant regions, in arresting and transferring fugitives to the Tribunals. National cooperation, particularly on the part of countries in the region, is very important to the Tribunals' ability to carry out their mandates smoothly. We have noted the challenges that the Tribunals face in transferring those convicted for the enforcement of their sentences and in relocating those who have been acquitted. We call on those countries in a position to do so to display the necessary political will and give positive consideration to offering the Tribunals more support and cooperation.

Thirdly, we welcome the recent progress made by the ICTR in referring cases to Rwanda, and we thank Prosecutor Jallow for his work. Referring as many cases as possible to countries that are able and willing to do so is an important step in the Tribunals' completion strategy. We hope to see more progress on the part of the ICTR in that regard.

**Mr. Hardeep Singh Puri** (India): At the outset, I would like to join others in thanking Judge Theodor Meron and Judge Khalida Rachid Khan for their presentations and assessments of the work of the Tribunals. We also appreciate very much the briefings by the Prosecutors of the two Tribunals.

India welcomes the progress made by the two Tribunals in expediting their work on the completion strategies. We have noted various measures adopted by the Tribunals to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals. We also welcome the cooperation extended by Member States to the two Tribunals. The arrest of Ratko Mladić and Goran Hadžić is an important example of effective international cooperation. Now no outstanding fugitive remains of the International Criminal Tribunal for the Former Yugoslavia since (ICTY). However, nine of the accused of the International Criminal Tribunal for Rwanda (ICTR) remain at large and need to be apprehended and transferred to the ICTR.

It is critical that the Tribunals finish their work on time. We have listened carefully to the concerns expressed by Judge Meron and Judge Khan in relation to their ability to keep pace with their work while adhering to the projected timelines. The Judges have pointed out that the Tribunals' trials and appeals continue to be affected by rules relating to the assignment of contempt proceedings, the loss of highly efficient staff members and the employment of interns. We fully share those concerns. The retention of adequate and experienced staff is necessary to enable the Tribunals to complete their work in accordance with the completion strategy.

In that context, there is a need for flexibility in the existing rules, including on the retention of interns, especially when the Tribunals are winding up their work and experienced people are unavailable for short periods. We support the suggestion made by Judge Meron and Judge Khan in that connection. The issue raised by Judge Khan on the relocation of convicted persons is also important and needs to be addressed.

We have noted with satisfaction that both the ICTY and the ICTR have been working closely in coordination with the Office of Legal Affairs to implement the International Residual Mechanism for Criminal Tribunals, established by resolution 1966 (2010). Enhanced cooperation among the ICTY, the ICTR, the Office of Legal Affairs and the Council's Informal Working Group on International Tribunals will further streamline the implementation of the

Residual Mechanism. The Council should stand ready to address any functional, operational or institutional issue that may arise in relation to the completion strategy or the Residual Mechanism.

In conclusion, we believe that the two Tribunals have admirably implemented their mandates. We consider that the continued support of the Security Council is crucial at this juncture, as the Tribunals are taking all necessary steps to keep the trial and appeal schedules on track. That will pave the way for the successful trials of the remaining accused and a smooth transition to an efficient Residual Mechanism.

**Mr. Briens** (France) (*spoke in French*): First of all, I would like to thank the Presidents and the Prosecutors of the International Criminal Tribunals for their reports.

With respect to the International Criminal Tribunal for Rwanda (ICTR), the Tribunal's President and Prosecutor Jallow have both described the considerable efforts that were made in recent months by the entire staff of the Tribunal in order to complete the trials under way and to preserve evidence under rule 71 bis, in the event that the three high-ranking fugitives — Félicien Kabuga, Protais Mpiranya and Augustin Bizimana — are arrested one day. France appreciates the work accomplished.

The transfer of the *Uwinkindi* case to Rwanda, if confirmed, will also be an important step forward. Judicial procedures are continuing in France with respect to the *Laurent Bucyibaruta* and *Wenceslas Munyeshyaka* cases. We look forward to hosting the Prosecutor in France next week to assess the status of the procedures.

Nine accused, including three who are high-ranking, remain fugitives. We welcome the efforts of the Prosecutor to find and to arrest those fugitives. We note that the Prosecutor expects increased cooperation from Kenya in the *Félicien Kabuga* case.

More disturbing, the Prosecutor also mentioned the presence of Protais Mpiranya in Zimbabwe. That is a major concern. Everyone's cooperation with the ICTR is required in accordance with Security Council resolutions. Undoubtedly, we will find a way to remind every one of their obligations.

Lastly, the ideas presented by Judge Khan with regard to ensuring the Tribunal's legacy warrant our full attention.

With respect to the International Criminal Tribunal for the Former Yugoslavia (ICTY), France welcomes the progress that has been made, as no fugitives remain at large following the arrest of Goran Hadžić, on 20 July. That is a crucial milestone in the work of the Tribunal and sends an important message to all of those who, even today, continue to attempt to obtain power or remain in power by planning and ordering attacks against civilians. It also sends a message to all of those who are being sought under an international criminal warrant for the commission of war crimes, crimes against humanity or the crime of genocide who believe that they can rely on the Council's inaction or lassitude to evade justice. It is important that the Council maintain its determination in that regard.

Given the complexity of the cases before the International Criminal Tribunal for the Former Yugoslavia, it is understandable, as the Tribunal's President and Prosecutor have explained, that the proceedings require time. There is therefore a need to ensure that the Tribunal has all of the means necessary to work effectively, and in particular that it can address the challenge of staff retention.

We listened attentively to the sensible proposals of Judge Meron, whom we commend on assuming his new functions. The proposals, which Judge Khan supports, are important as they are specific and easy to implement, as is the case with the recommendation on the recruitment of interns. We are ready to ensure follow-up under the leadership of the Chair of the Informal Working Group on International Tribunals, the Ambassador of Portugal.

With respect to cooperation with the ICTY, a question that arose when we listened to the Prosecutor's report concerned the reasons as to why the arrest of fugitives in Serbia has taken such a long time. Another question concerns the escape of a criminal who was imprisoned in Foča, and who has not yet been caught.

Lastly, generally speaking, the lack of cooperation of States in the region in tracking and prosecuting mid-level criminals is disturbing. We must stress that for the European Union, cooperation with the ICTY and regional cooperation have always been, and will remain, important considerations.

In its resolution 1966 (2010), adopted in December 2010, the Security Council set a timeline for

the completion of the work of the two Tribunals and established the Residual Mechanism to complete the proceedings. We will soon elect the judges for the Residual Mechanism. We would like to thank the representatives of the Tribunals as well as the Office of Legal Affairs of the Secretariat for their efforts made in order to respect the timeline and to ensure the effective operation of the Residual Mechanism.

**Mrs. Duarte** (Colombia) (*spoke in Spanish*): Allow me once again to thank the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) for their briefings. My delegation would also like to thank them for their efforts and for the steps they have taken to implement the completion strategy.

We would also like to highlight in particular the arrest of the last two fugitives from the ICTY. This is not only a great achievement but also without a doubt eliminates one of the obstacles in the way of the satisfactory conclusion of its mandate. We also welcome the activities undertaken to facilitate the transfer of specialized and institutional knowledge to national jurisdictions and to other existing mechanisms, including the International Criminal Court (ICC).

It is very important to preserve the legacy of the Tribunals in the area of international humanitarian law and legal doctrine, including substantive and procedural aspects, and the influence that their jurisprudence could have on the future of global justice and the promotion of human rights.

Through their activities, these two subsidiary bodies of the Council have shown that the establishment of an effective system of international justice is not only possible but desirable. Their achievements have contributed to paving the way for the establishment of the ICC.

From a practical point of view, there is no doubt that, as Presidents Meron and Khan stated so eloquently, staff retention is the most serious problem facing both Tribunals. If the existing difficulties are not resolved, a situation could arise that would prevent the timely implementation of the completion strategies devised and adopted by the Council.

For that reason, we support the request made by both Presidents to the effect that the activities currently under way would be strengthened if we Council members provide them with support and if we send a clear and unequivocal message as to the importance of resolving the retention and staff recruitment policies. Failing that, it will be very difficult, if not impossible, to guarantee the full implementation of the completion strategies.

The Council should renew the appeals that it has made in the past for the relevant bodies of the United Nations to step up their efforts to resolve this fundamental issue and make it easier for the Tribunals to retain the human resources necessary for the timely implementation of their completion strategies.

This is not a routine administrative problem, since both Tribunals were established by the Council under very specific circumstances and have provided outstanding service in the cause of international justice and the maintenance of international peace and security.

We consider, for example, that the administrative practice that prevents the recruitment of interns before a certain period of time has elapsed is not applicable to the Tribunals. Under its own terms, resolution 51/226 of the General Assembly applies only to Secretariat personnel. The rationale for the establishment of this rule clearly is not relevant to the particular situation facing both Criminal Tribunals.

Colombia is of the view that the Tribunals have worked diligently to comply with the decisions of the Council in terms of the fulfilment of their responsibilities. The International Criminal Tribunals for the Former Yugoslavia and for Rwanda are the main instrument through which the Council has channelled the will of the international community to put an end to impunity for heinous international crimes.

Now that both judicial bodies will be wrapping up their work, it is crucial that the various entities of the United Nations take the actions necessary to ensure that the Tribunals have the resources required to conclude their mandates in an effective, orderly and timely fashion.

**Mrs. Onanga** (Gabon) (*spoke in French*): On behalf of my delegation, I should like to thank the Presidents and the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for

their respective presentations on the implementation of their completion strategies, in line with resolutions 1503 (2003) and 1534 (2004). I should like also to congratulate His Excellency Ambassador José Filipe Moraes Cabral on the skill with which he is steering the Informal Working Group on International Tribunals.

My delegation welcomes the progress made in the implementation of the completion strategy and commends the strong determination of the Tribunals' Presidents, Prosecutors, judges and staff to ensure the swift completion of their work. We are convinced that all of these efforts will enable a smooth transition to the Residual Mechanism adopted by the Security Council in its resolution 1966 (2010).

Our debate is taking place at a time when important developments in terms of combating impunity have just taken place. The successive arrests, on 26 May and 20 July 2011, of Ratko Mladić and Goran Hadžić represent an important milestone for international criminal justice and for the victims. Those arrests are evidence of Serbia's determination to mercilessly combat impunity in the country. Gabon welcomes the determination and cooperation that the Serbian Government has shown. We must now take advantage of the resulting favourable environment in order to further promote cooperation among States, which is essential to facilitate first-instance trials and appeals on the one hand and transfers to national jurisdictions on the other.

While we welcome the cooperation with the Democratic Republic of the Congo in the arrest of Bernard Munyagishari last May, we encourage the countries neighbouring the Great Lakes region and those of southern Africa to step up their cooperation with the Rwanda Tribunal in order to facilitate the arrest of the nine fugitives and implement the completion strategy.

Without effective judicial and penal institutions such as the International Criminal Tribunals, the combat against impunity and the strengthening of international criminal justice would be fruitless endeavours. The standards-setting work of the Security Council in this area is universal in scope and should be strongly highlighted.

However, and most importantly, there is also a need to intensify our vigilance and demonstrate increased political will so as to bolster the work of the Tribunals. That is the kind of sustained effort they require in order to complete their work by the trial deadlines.

My delegation welcomes the measures taken by the Security Council to support the efforts made by the Tribunals despite the challenges encountered in carrying out their work. Indeed, ongoing support on the part of the Council for the work of the Tribunals remains crucial to ensuring their smooth functioning.

On the basis of the provisions of resolutions 1931 (2010), 1932 (2010), 1993 (2011), 1995 (2011) and 2013 (2011), my delegation encourages the Council to continue to strive to enhance the effectiveness of the Tribunals. From that standpoint, the Tribunals must be provided with sufficient resources so as to enable them to resolve problems related to understaffing. Furthermore, appropriate measures should be taken to enable the Tribunals to retain qualified staff, whose expertise is key to the optimal functioning of the Tribunals, until the transfer of responsibilities to the Residual Mechanism. The provisions of General Assembly resolution 65/253 are relevant in this respect and should be supported.

In conclusion, we would like to underscore the crucial role played by the Tribunals in the development of international law. The institutional and judicial legacy they represent must be preserved. My country supports the efforts made by the Tribunals and all the stakeholders involved in the achievement of that lofty goal. Raising awareness of the scope of the work of the Tribunals is a part of that objective and warrants our full support.

The international community must also devote particular attention to the victims of the crimes committed in the former Yugoslavia and in Rwanda and compensate them for the harm and abuses that they suffered. In this respect, the creation of a special fund, like that of the International Criminal Court, warrants our support.

**Ms. Čolaković** (Bosnia and Herzegovina): For almost two decades now, both the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) have been guided by the demand for justice for those who suffered in those two respective regions.

Bosnia and Herzegovina supports the activities of the Tribunals. It is therefore my pleasure to welcome

today Judge Theodore Meron and to congratulate him on his assumption of the presidency of the ICTY for the second time. I also wish to extend our welcome to Judge Khan, President of the ICTR, as well as to the Prosecutors of the Tribunals, Mr. Brammertz and Mr. Jallow. Their respective briefings have provided detailed and comprehensive accounts of all the activities in the reporting period. Those reports are also testimony to their dedication to justice and the fight against impunity. Here, I would also like to underline the great contribution of the staff of the Tribunals and to thank them for their tireless work.

We take note of the Tribunals' continuing efforts to successfully complete their work, mindful of the highest standards of fair justice. Their steadiness in fulfilling their remaining judicial functions is commendable, particularly in the face of unforeseen challenges beyond their control. However, what concerns us most with respect to the cases proceeding to the pre-trial phase are the steps being taken to reconcile the requirements of the completion strategy with the demands of presenting cases in a way that fully reflects the gravity and scope of the crimes committed. We hope that, in their final stages, the Tribunals will move towards meeting those demands first and foremost, as well as meeting the requirements of the completion strategy.

Bosnia and Herzegovina is still facing a large number of cases that remain to be prosecuted. We believe that there can be no meaningful peace and reconciliation without justice. We therefore once again underline that all those responsible for war crimes must be brought to justice. Furthermore, we fully agree that cooperation between the countries in the region is highly important, and that every effort should be made towards improving and enhancing cooperation through numerous bilateral agreements that will address possible deficiencies.

Finally, as the mandate of my country in the Security Council comes to a close, we are particularly pleased to be able to participate in such an important chapter of the Tribunals' history. With the adoption of resolution 1966 (2010) and the creation of the Residual Mechanism, we ensured that their legacy of groundbreaking contributions to international jurisprudence and the international justice system will be permanently preserved. It is our sincere hope that this legacy will ensure that atrocities such as those committed in our country and Rwanda will never be repeated.

**Mr. DeLaurentis** (United States of America): We wish to thank Tribunal Presidents Khan and Meron and Prosecutors Jallow and Brammertz for their briefings today. We also wish to congratulate President Meron on his recent re-election as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and wish him much success. In addition, we thank former President Robinson for his valuable service at that Tribunal.

Since we last addressed the Council on the Tribunals (see S/PV.6545), shortly after the arrest of Ratko Mladić, the last remaining fugitive under ICTY indictment, Goran Hadžić, was captured. We mark their capture, arrest and transfer as one step, albeit a significant one, on the path to justice and reconciliation, but we understand that that is only one step on a long road to peace and justice. Even as the ICTY is completing its mandate, and even as we look forward to the start of the Residual Mechanism, the ICTY is extremely busy with proceedings in 15 cases against 35 persons. We are confident that President Meron and the Tribunal as a whole can meet the challenge of concluding those trials fairly and efficiently while also coordinating the transfer of key functions from the Tribunal to the Residual Mechanism.

The ICTY recently held a conference to discuss what kind of legacy it is leaving for future generations. Among other things, the ICTY has shown that the international community can establish an effective judicial institution that will bring to justice those who perpetrate atrocities. The ICTY has in large part been a success because of the hard day-to-day work of its judges, prosecutors and staff, who are committed to their core mission of being an effective court and dispensing justice. The ICTY has shown that it can provide fair trials, that war crimes fugitives cannot escape justice, and that victims can now expect that those who commit crimes against civilians will be held to account.

Again, we note with appreciation the progress that the Tribunal has made in ensuring that its procedures are both expeditious and fair, including doubling up on staff and judges, such that they work on more than one trial at a time. We note with appreciation the measures that President Meron has

outlined here today, and welcome his continued efforts to improve the work of the Tribunal.

The United States continues to call on States of the former Yugoslavia to cooperate fully with the ICTY. We encourage the Government of Serbia to continue its efforts to determine how Ratko Mladić and Goran Hadžić were able to avoid justice for so many years, and to take appropriate measures against their support networks. We also look forward to cooperation from the relevant countries in the region on the apprehension of Radovan Stanković, who escaped in 2007 from prison in Bosnia and Herzegovina. In addition, we note the Government of Croatia's record of cooperation with the ICTY, and urge it to work to support the ICTY and to continue to cooperate with the prosecution.

Turning to the International Criminal Tribunal for Rwanda (ICTR), the United States welcomes the 24 June judgement in the case against the former Minister of Family and Women's Development and five others. The conviction of the former Minister of Family and Women's Development is a significant milestone, because it demonstrates that rape is a crime of violence that has been used as a tool of war by men and women alike. The United States also welcomes the 17 November 2011 judgement in the case against the former mayor of Kivumu, who had authority over the local police yet failed to prevent the massacre of more than 1,500 people.

When we last addressed these issues in the Council in June, the United States welcomed the then recent apprehension of fugitive Bernard Munyagishari in the Democratic Republic of the Congo. Now, 190 days after his arrest, the United States is discouraged that nine remaining fugitives remain at large. Ensuring completion of the work of the Tribunal and smooth and efficient transition to the Residual Mechanism is not the work of the Tribunal alone; every Member State has an obligation to apprehend the remaining fugitives. The United States, along with many others, is making a concerted effort to assist other nations in bringing these fugitives to justice. We ask all States to redouble their efforts and to cooperate fully with the ICTR to locate and apprehend the remaining fugitives.

On behalf of the United States, let me thank the United Nations Office of Legal Affairs for its dedication and service to the Tribunals. Let me again also thank the Tribunal Presidents, Prosecutors, Registrars and their staffs for all that they do to promote justice under international law for the victims of war crimes and mass atrocities.

Due to the hard work of the Office of the ICTY Prosecutor and the Serbian authorities, all of the fugitives indicted by the ICTY have been apprehended. We now hope that all parties will make the necessary but difficult decisions to actively encourage inter-ethnic reconciliation by speaking to their communities of the rewards of peace. With the ICTR, the situation is slightly different, since so many indictees remain at large. We pledge our assistance in bringing the remaining ICTR fugitive indictees to justice as quickly as possible, and our doors are always open for consultation with the ICTR.

Since the end of the Second World War, the United States Government has viewed justice for victims of war crimes, crimes against humanity and genocide as an essential element for peace and stability. We take this opportunity to reaffirm those convictions and to applaud all those who contribute to that important task.

**The President** (*spoke in Russian*): I shall now make a statement in my capacity as representative of the Russian Federation.

At the outset, we would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR) for their reports. We congratulate Mr. Theodor Meron on his election to the post of President of the ICTY, and we look forward to the ICTY at last beginning to really effectively implement resolution 1966 (2010).

We note the efforts of the Tribunals to ensure the timely and full implementation of their mandates, while strictly complying with that resolution. The recent successes of the Tribunals were made largely possible by the excellent cooperation between them and the States in their respective regions. In that regard, we note in particular Serbia's excellent cooperation with the ICTY. Our Serbian colleagues have gone even further by launching a national investigation into the reasons why some of the accused remained in Serbia for so long. We understand and welcome Serbia's desire to undertake such an investigation. Given that only Serbia has the jurisdiction to undertake such an investigation, we do

not understand why the ICTY is allowing itself to be distracted from its numerous tasks by focusing on it.

The Tribunals certainly continue to face well-known problems in their work. The attrition of qualified staff continues and is more rapid than we would wish. Here, it is necessary to bear in mind that, in accordance with the completion strategy, the number of Tribunal staff should gradually be reduced. Nonetheless, we, together with other delegations, are ready to consider ways of helping the Tribunals to resolve that issue.

Despite all the difficulties of the Tribunals' work, our top priority is the winding up of the Tribunals, in full compliance with resolution 1966 (2010). In that regard, unfortunately, we again see problems, in particular with the ICTY. The documents and tables show that, as was frequently the case in the past, the intention is to exceed the deadlines established by resolution 1966 (2010). The reasons for the delays are not completely clear to us. For example, we do not understand why the first instance trials of the Mladić and Hadžić cases are due to start only in November 2012 and January 2013, respectively. The necessary pre-trial work on those cases has to a large extent been completed. We see no obstacle to compieting the first instance trial of the Karadžić case on time.

Particular attention should be paid to the notorious case of Šešelj. He has been in detention for nine years now. Moreover, there has still not been a first instance judgement. Furthermore, we hear worrying reports of Mr. Šešelj's state of health and the problems that he has encountered in enjoying his procedural rights. We would be grateful if the ICTY leadership could include the developments of that case and the general condition of Mr. Šešelj in its next report to the Security Council.

We cannot fail to be concerned about the situation of appeals to the ICTY on the Prlić, Šešelj and Tolimir cases. It is surprising that the ICTY report has not set specific dates in the tables on the appeals. If we read the tables correctly, the ICTY intends to consider those appeals up to the middle of 2016. That is not in compliance with resolution 1966 (2010).

We wish to recall that the parameters for the Residual Mechanism and for closing the Tribunals were formulated by members of the Security Council on the basis of the timetables for the completion of cases submitted by the Tribunals themselves last year. Thus, we have every reason to insist that the heads of both Tribunals make every effort to properly implement resolution 1966 (2010). In that connection, we welcome the intention of the President of the ICTY, Mr. Meron, to take significant administrative measures to increase the efficiency of the trials.

In addition to the steps mentioned by the President of the ICTY, we believe that it would also be appropriate to try to find a way to shorten trials by reducing the length of judgements and, accordingly, the time spent by judges in drawing them up and by translators in translating them. We do not understand why the length of judgements ranges from 2,000 to some 4,000 pages. We recall that *The Forsyte Saga*, for example, is only 1,000 pages long. The reports of the Secretary-General on the most complex issues do not exceed 100 pages.

An excellent practice in drawing up judgements is demonstrated by the International Court of Justice. I believe it significant that it is difficult not only for the accused, but for other people who have not had adequate training and for lawyers themselves, to understand lengthy judgements. Furthermore, the ICTY founding document does not establish any formal requirements with regard to the length of the Tribunal's judgements. We do not deny that different legal systems have different approaches to drawing up judgements. For example, in the Anglo-Saxon legal system, whose representatives had a decisive influence on establishing the practices of the ICTY, in particular in the initial phase of its work, it is customary to draw up lengthy rulings.

However, the Tribunals should represent all legal systems. Most of them have the practice of drawing up shorter judgements. In the current difficult circumstances, we see no obstacle to the ICTY adopting more concise forms of national practice in that regard.

I have one further point. On 16 December, we are due to elect judges for the International Residual Mechanism for Criminal Tribunals. We attach great importance to those elections.

I now resume my functions as President of the Council.

I give the floor to the representative of Serbia.

**Mr. Starčević** (Serbia): At the outset, let me express the satisfaction of the Republic of Serbia with

the efforts of the President and the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron and Mr. Serge Brammertz, with regard to Serbia's cooperation with the Tribunal. I would like to thank Judge Patrick Robinson for his distinguished service as President of the Tribunal and to congratulate Judge Meron on the assumption of the presidency of the ICTY. Also, allow me to use this occasion to pay my respects to the President and the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), Ms. Khalida Rachid Khan and Mr. Hassan Bubacar Jallow.

Concerning Serbia's cooperation with the ICTY, it is my pleasure to say that Serbia, once again, shares the Prosecutor's assessment on all aspects of cooperation. The last two fugitives before the Tribunal have been arrested and transferred to The Hague by Serbian authorities, and my Government is in accordance with the Prosecutor that "these arrests are milestones to remember" (*S/2011/716, annex II, para. 47*).

With regard to the other aspects of cooperation pertaining to access to documents, archives and witnesses, I would like to add that such cooperation between Serbia and the Tribunal has been impeccable for a long time and that the high level of cooperation was successfully maintained during the reporting period. New requests for assistance are received on a daily basis and are considered without delay.

With the transfer of the last two indictees to the Tribunal and the fact that there are no outstanding ICTY requests for assistance regarding the ongoing proceedings before the Tribunal, Serbia believes that it has now, undoubtedly, fully cooperated with the Tribunal. Serbia is confident that the level of cooperation achieved will continue in the coming period and that it will secure a smooth transition to future cooperation with the International Residual Mechanism for Criminal Tribunals.

With that chapter of cooperation with the ICTY closed and following the total fulfilment of international obligations in good faith, Serbia is at long last in a position to assign its capacities to issues concerning the future prosperity and reconciliation of the region.

Taking all the above into consideration, it is evident that Serbia, as well as the whole region, has greatly changed since the Secretary-General, in his report to the Security Council of 3 May 1993 (S/25704), stated that he is of the view that the enforcement of sentences should take place outside the territory of the former Yugoslavia. Therefore, the Republic of Serbia is ready to share responsibility with other countries in regard to that issue and will pursue its initiative whereby Serbia and other countries of the former Yugoslavia willing to do the same are allowed to sign agreements with the Tribunal on the enforcement of sentences. Serbia expects that the Security Council will pay attention to that initiative.

Serbia is also willing to continue to cooperate with the Security Council Informal Working Group on International Tribunals on issues related to the archives of the Tribunal. Serbia maintains its position as submitted to the Security Council in October 2008 and March 2009, and reiterates its readiness to actively participate in all future discussions on those issues.

Our successful cooperation with the Tribunal gives us a moral right to continue to call for an effective investigation into alleged crimes involving murder for the purpose of organ trafficking committed by the so-called Kosovo Liberation Army. Serbia expects that the ongoing investigation into those war crimes allegations, as detailed in the 7 January report of the Special Rapporteur of the Council of Europe will be conducted professionally, impartially and efficiently in order to establish the truth and bring the perpetrators to justice.

In conclusion, I would like to emphasize that the mutual goals of Serbia and the Tribunal have proven to be identical and feasible. We hope that the fulfilment of those goals have contributed to the achievement of international justice, the further normalization of the situation and the improvement of relations among the States of the Balkans. Through its efforts and the results achieved, Serbia has made a significant contribution to the ICTY completion strategy and, at the same time, to the process of building confidence in the work of national and international institutions.

**The President** (*spoke in Russian*): I now give the floor to the representative of Rwanda.

**Mr. Gasana** (Rwanda): Allow me to congratulate you, Mr. President, on your assumption of the presidency for the month of December. I would like to commend Judge Theodor Meron, the new President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and, through him, the outgoing

President, Judge Patrick Robinson, as well as Judge Khalida Rachid Khan, President of the International Criminal Tribunal for Rwanda (ICTR), for their reports on the completion strategies of their respective Tribunals (see S/2011/716 and S/2011/731). I also thank the Prosecutors of the respective Tribunals, Mr. Serge Brammertz and Mr. Hassan Bubacar Jallow.

As the International Criminal Tribunal for Rwanda enters its final year, Rwanda reaffirms its unwavering support for, and cooperation with, the Tribunal and readiness to facilitate the trials of the remaining cases by mid-2012, as outlined in the ICTR report. Through the Rwanda Witness Protection Service, we will continue to provide security and access to witnesses from both sides and assist their movement to and from Arusha. As usual, my Government will also extend support to investigations and make available all relevant documents.

The Government of Rwanda welcomes the referral decision of 28 June delivered by the ICTR in the case of Jean-Bosco Uwinkindi, and expects that the pending application for the referral of the Bernard Munyagishari case will also be granted. Rwanda also welcomes the 27 October ruling of the European Court of Human Rights on the extradition of Silvère Ahorugeze, who is accused of war crimes and genocide and was arrested in Sweden. The Court conclusively determined that the extradition would not violate the relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular article 3, which prohibits inhuman or degrading treatment or punishment, and article 6, which establishes the right to a fair trial.

That ruling will facilitate decisions by the ICTR on referral applications and alleviate the burden of the Tribunal in the final phase of its completion strategy. In that regard, Rwanda calls upon all European Union member States to arrest and/or extradite all genocide fugitives and suspects living within their territory in order to assist in the fight against impunity for the most serious crimes. That is a prerequisite for any reconciliation.

The ICTR tracking unit should be recognized for its tremendous efforts, together with those of various United Nations Member States, to arrest numerous fugitives over the years. Rwanda will continue to urge all Governments to cooperate with the Tribunal in arresting the remaining fugitives, including one of the masterminds and financiers of the genocide, Félicien Kabuga, and in facilitating their transfer to Arusha or Rwanda.

The ICTR has done a commendable job in the fight against impunity and in ensuring accountability for the most serious crimes. However, as the ad hoc Tribunals are temporary and transitional, at some point the transition must come to an end. Rwanda has expressed concerns regarding the relevance of the International Residual Mechanism for Criminal Tribunals, which it feels would unnecessarily prolong the transition, rather than focus on empowering national jurisdictions, particularly in countries that suffered from those crimes. It is therefore imperative that the term of the Residual Mechanism be strictly limited and that strong emphasis be placed on transferring cases to permanent and national jurisdictions.

I conclude by again expressing my gratitude for the opportunity to take part in this important discussion, and reiterate my Government's continued commitment to supporting and expediting the work of the ICTR and the Residual Mechanism.

**Mr. Vilović** (Croatia): At the outset, I should like to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month. We are confident that, under your able guidance, the Council will successfully undertake its many duties and responsibilities during this final month of what has been an astonishing year in many respects.

Allow me to also express my appreciation to Presidents Robinson and Khan and Prosecutors Brammertz and Jallow for their detailed reports on the work of the Tribunals (S/2011/716 and S/2011/731) and on the progress achieved and challenges faced in the implementation of their completion strategies.

Furthermore, we thank Judge Patrick Robinson for his distinguished service as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and welcome Judge Theodor Meron as its new President. Having known Judge Meron for a long time, we express full confidence in his ability to successfully master the many challenging tasks ahead of him.

Croatia strongly supports the efforts of the Tribunals to undertake all measures within their power

to expedite their proceedings as part of the implementation of the completion strategy for the finalization of their work and their transition to the Residual Mechanisms. At the same time, that transition must not in any way affect the Tribunals' mandates or the due process standards on which their procedure is based.

Croatia closely follows the possible emergence of new jurisprudence founded on the Tribunal's judgements, as well as the lively academic debate about its possible effects on and consequences for future criteria for the legitimate use of force in preserving international peace and security. In that respect, we would like to stress the importance of a thorough analysis of this complex matter. As a nation that contributes troops to United Nations- and NATO-led operations, we care about and pay close attention to any possible new jurisprudence that could jeopardize the ability to wage legitimate and effective military actions aimed at preserving or fostering international security.

Croatia also welcomes the fact that Ratko Mladić and Goran Hadžić, indicted for the worst atrocities committed in Europe since the Second World War, have been brought to justice necessary Hadžić during this reporting period. That represents a great achievement not only for the Tribunal but also for international justice in general. It is powerful testimony to the fact that impunity for grave breaches of international humanitarian and human rights law will not be tolerated.

The European Parliament's acceptance on 1 December of Croatia's request to become a member of the European Union (EU), the subsequent decision of the European Council to welcome Croatia to the EU and the upcoming signature of the accession treaty by the Republic of Croatia all testify to Croatia's readiness and ability to fully and unconditionally fulfil all of its international obligations and commitments. In that context, Croatia continues its unwavering cooperation with the Tribunal, as is confirmed by the report before us today (see S/2011/716).

With regard to the request by the Office of the Prosecutor for missing documents, let me stress that Croatia fully complies with the Trial Chamber's decision on this matter. We are pleased that Prosecutor Brammertz has recognized Croatia's cooperation regarding the remaining cases before the ICTY by saying that "Croatia has given timely and adequate responses and provided access to witnesses and evidence as required" (*ibid., para. 55*). We also count on the cooperation of all relevant United Nations bodies in the search for the sought documentation, in line with the testimony given by United Nations military observers in The Hague.

Croatia is deeply committed to the process of reconciliation in the former Yugoslavia and firmly believes that the prosecution of all those responsible for violations of international humanitarian law is a necessary precondition to achieving that goal. However, such prosecutions cannot come at the expense of the historical facts. Subversion of the facts only leads to further division, further tension and the creation of additional grievances.

With regard to Prosecutor Brammertz's oral assessment earlier in this meeting, in which he claims that "State officials at the highest level in Croatia continue to glorify illegal wartime conduct and question the impartiality of ICTY judgements", Croatia categorically rejects those characterizations as unfounded and unacceptable. At the same time, expert opinion on this issue should be freely expressed and by no means be seen as questioning the impartiality of ICTY judgements.

Croatia therefore fully supports regional cooperation in the area of war crimes. We are confident that such cooperation should be carried out on well-established principles of international criminal law and in full observance of respective national jurisdictions and competences. Likewise, cooperation should be based on full compliance with the basic principles of legitimate procedure and on the implementation of internationally recognized methods for the collection of evidence.

Finally, let me conclude by stressing that my country has thoroughly developed its cooperation with the Tribunal in all vital areas, and we are determined to continue that cooperation until the fulfilment of the Tribunal's mandate.

**The President** (*spoke in Russian*): There are no further speakers inscribed on my list.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

*The meeting rose at 5.35 p.m.*